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SENATE BILL NO. 1176

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 28, 2021)

(Patron Prior to Substitute—Senator Ruff)

A BILL to amend and reenact §§ 37.2-314, 37.2-408.1, 37.2-416, and 37.2-506 of the Code of Virginia, relating to the Department of Behavioral Health and Developmental Services; barrier crimes.

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-314, 37.2-408.1, 37.2-416, and 37.2-506 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-314. Background check required.

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

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 in the 10 years prior to the application date for employment, and may hire a person who has been convicted of such offenses more than 10 years prior only if he has not been convicted of any other crime in the 10 years prior to the application date for employment and is not on probation or parole or failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

C. Notwithstanding the provisions of subsection B, the Department may hire for compensated employment at an adult substance abuse or adult mental health treatment program a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. The Department and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsection C to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms; shall not be under probation or parole supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and court costs for any prior convictions; and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the Department or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the Department decides to pay the cost.

E. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the state facility or Department shall not be

60 disseminated except as provided in this section.

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

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

70 **§ 37.2-408.1. Background check required; children's residential facilities.**

71 A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or
72 providing services on a regular basis, every children's residential facility that is regulated or operated by
73 the Department shall require any person who (i) accepts a position of employment at such a facility, (ii)
74 is currently employed by such a facility, (iii) volunteers for such a facility, or (iv) provides contractual
75 services directly to a juvenile for such a facility to submit to fingerprinting and to provide personal
76 descriptive information, to be forwarded along with the person's fingerprints through the Central
77 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal
78 history record information regarding the person. The children's residential facility shall inform the person
79 that he is entitled to obtain a copy of any background check report and to challenge the accuracy and
80 completeness of any such report and obtain a prompt resolution before a final determination is made of
81 the person's eligibility to have responsibility for the safety and well-being of children. The person shall
82 provide the children's residential facility with a written statement or affirmation disclosing whether he
83 has ever been convicted of or is the subject of pending charges for any offense within or outside the
84 Commonwealth. The results of the criminal history background check must be received prior to
85 permitting a person to work in the children's residential facility.

86 The Central Criminal Records Exchange, upon receipt of a person's record or notification that no
87 record exists, shall forward it to the state agency that operates or regulates the children's residential
88 facility with which the person is affiliated. The state agency shall, upon receipt of a person's record
89 lacking disposition data, conduct research in whatever state and local recordkeeping systems are
90 available in order to obtain complete data. The state agency shall report to the children's facility whether
91 the person is eligible to have responsibility for the safety and well-being of children. Except as
92 otherwise provided in subsection B, no children's residential facility regulated or operated by the
93 Department shall hire for compensated employment or allow to volunteer or provide contractual services
94 persons who have been convicted of or are the subject of pending charges for (a) any offense set forth
95 in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 *in the 10 years prior to*
96 *the application date for employment, to be a volunteer, or to provide contractual services, and may hire*
97 *a person who has been convicted of such offenses more than 10 years prior only if he has not been*
98 *convicted of any other crime in the 10 years prior to the application date and is not on probation or*
99 *parole or failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the*
100 *definition of barrier crime in § 19.2-392.02* or (b) any offense set forth in clause (iv) of the definition of
101 barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a
102 volunteer, or to provide contractual services or (2) such person continues on probation or parole or has
103 failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier
104 crime in § 19.2-392.02. The provisions of this section also shall apply to structured residential programs,
105 excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in
106 a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need
107 of services or supervision.

108 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
109 compensated employment or for volunteer or contractual service purposes persons who have been
110 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially
111 similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction,
112 unless the person committed such offense in the scope of his employment, volunteer, or contractual
113 services.

114 If the person is denied employment, or the opportunity to volunteer or provide services, at a
115 children's residential facility because of information appearing on his criminal history record, and the
116 person disputes the information upon which the denial was based, upon written request of the person the
117 state agency shall furnish the person the procedures for obtaining his criminal history record from the
118 Federal Bureau of Investigation. The information provided to the children's residential facility shall not
119 be disseminated except as provided in this section.

120 C. Those persons listed in clauses (i) through (iv) of subsection A also shall authorize the children's
121 residential facility to obtain a copy of information from the central registry maintained pursuant to

§ 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting a person to work. Children's residential facilities regulated or operated by the Department shall not hire for compensated employment, or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect.

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

§ 37.2-416. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 *in the 10 years prior to the application date for employment, and may only hire a person who has been convicted of such offenses more than 10 years prior if he has not been convicted of any other crime in the 10 years prior to the application date for employment and is not on probation or parole or failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02* or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 *in the 10 years prior to the application date to be a sponsored residential service provider, and may only approve an application for person who has been convicted of such offenses more than 10 years prior if he has not been convicted of any other crime in the 10 years prior to the application date, and is not on probation or parole or failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02* or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) if such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier

183 crime in § 19.2-392.02; or

184 3. Permit to enter into a shared living arrangement with a person receiving medical assistance
185 services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause
186 (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 *in the 10 years prior to entering into*
187 *a shared living arrangement, and may only permit a person to enter into a shared living arrangement*
188 *who has been convicted of such offenses more than 10 years prior if he has not been convicted of any*
189 *other crime in the 10 years prior to entering into a shared living arrangement, and is not on probation*
190 *or parole or failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the*
191 *definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of*
192 *barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or*
193 *(b) if such person continues on probation or parole or has failed to pay required court costs for such*
194 *offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.*

195 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
196 record exists, shall submit a report to the requesting authorized officer or director of a provider licensed
197 pursuant to this article. If any applicant is denied employment because of information appearing on the
198 criminal history record and the applicant disputes the information upon which the denial was based, the
199 Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures
200 for obtaining a copy of the criminal history record from the FBI. The information provided to the
201 authorized officer or director of a provider licensed pursuant to this article shall not be disseminated
202 except as provided in this section.

203 C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment
204 at adult substance abuse or adult mental health treatment programs a person who was convicted of any
205 violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of
206 § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89,
207 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense set forth in
208 clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections
209 H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if
210 the hiring provider determines, based upon a screening assessment, that the criminal behavior was
211 substantially related to the applicant's substance abuse or mental illness and that the person has been
212 successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history
213 background and his substance abuse or mental illness history.

214 D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment
215 at adult substance abuse treatment facilities a person who has been convicted of not more than one
216 offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another
217 jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in
218 Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more
219 than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a
220 screening assessment, that the criminal behavior was substantially related to the applicant's substance
221 abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving
222 services based on his criminal history background and his substance abuse history.

223 E. The hiring provider and a screening contractor designated by the Department shall screen
224 applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have
225 been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal
226 history backgrounds and substance abuse or mental illness histories. To be eligible for such screening,
227 the applicant shall have completed all prison or jail terms, shall not be under probation or parole
228 supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court
229 costs for any prior convictions, and shall have been free of parole or probation for at least five years for
230 all convictions. In addition to any supplementary information the provider or screening contractor may
231 require or the applicant may wish to present, the applicant shall provide to the screening contractor a
232 statement from his most recent probation or parole officer, if any, outlining his period of supervision
233 and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The
234 cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

235 F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated
236 employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a
237 shared living arrangement persons who have been convicted of not more than one misdemeanor offense
238 under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction,
239 if 10 years have elapsed following the conviction, unless the person committed the offense while
240 employed in a direct care position. A provider may also approve a person as a sponsored residential
241 service provider if (a) any adult living in the home of an applicant or (b) any person employed by the
242 applicant to provide services in the home in which sponsored residential services are provided has been
243 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially
244 similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction,

unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of 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, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. 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.

J. Notwithstanding any other provision of law, a provider licensed pursuant to this article 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 a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

§ 37.2-506. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, or permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 *in the 10 years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement, and may only hire a person who has been convicted of such offenses more than 10 years prior if he has not been convicted of any other crime in the 10 years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement, and is not on probation or parole or failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02* or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for

employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared living arrangement persons who have 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, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided 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, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of 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, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. Notwithstanding any other provision of law, a community services board 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 a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.

J. 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.