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HOUSE BILL NO. 1185

Offered January 26, 1998

A BILL to amend and reenact §§ 9-188, 9-189, 9-192, 18.2-308, 19.2-389 and 22.1-296.3 of the Code of Virginia, and to repeal § 54.1-3925.2 of the Code of Virginia, relating to access to criminal history record information.

Patron—O'Brien

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-188, 9-189, 9-192, 18.2-308, 19.2-389 and 22.1-296.3 of the Code of Virginia are amended and reenacted as follows:

§ 9-188. Regulations and procedures.

A. The Board shall issue regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall insure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

B. The Board shall issue regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

§ 9-189. Participation of state and local agencies in interstate system; access to such system limited.

A. The Board shall regulate participation of state and local agencies in any interstate system for the exchange of criminal history record information and shall be responsible for assuring the consistency of such participation with the terms and purposes of this article. The Board shall have no authority to compel any agency to participate in any such interstate system.

B. Direct access to any such system shall be limited to such criminal justice agencies as are expressly designated for that purpose by the Board.

C. The Board shall issue regulations and procedures for access to criminal history record information by members of the public through the criminal justice agencies of the Commonwealth.

§ 9-192. Individual's right of access to and review and correction of information.

A. Any individual who believes that criminal history record information is being maintained about him by the Central Criminal Records Exchange, or by the arresting law-enforcement agency in the case of offenses not required to be reported to such Exchange, shall have the right to inspect a copy of such criminal history record information at the Exchange or the arresting law-enforcement agency, respectively, for the purpose of ascertaining the completeness and accuracy of such information reported to the Central Criminal Records Exchange. The individual's right to access and review shall not extend to any information or data other than that defined in subdivision 4 of § 9-169.

B. The Board shall issue regulations with respect to an individual's right to access and review criminal history record information about himself reported to the Central Criminal Records Exchange or, if not reported to the Exchange, maintained by the arresting law-enforcement agency. Such regulations shall provide for public notice of the right of access; access to criminal history record information by an individual or an attorney-at-law acting for an individual; identification required; places and times for review; review of Virginia records by individuals located in other states; assistance in understanding the record; obtaining a copy for purposes of initiating a challenge to the record; procedures for investigation of alleged incompleteness or inaccuracy; completion or correction of records if indicated; and notification of the individuals and agencies to whom an inaccurate or incomplete record has been disseminated.

C. If an individual believes information maintained about him to be inaccurate or incomplete, he may request the agency having custody or control of the records to purge, modify, or supplement them. Should the agency decline to so act, or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual may request, in writing, review by the Board. The Board or its designee shall, in each case in which it finds prima facie basis for a complaint, conduct a hearing at which the individual may appear with counsel, present evidence, and examine and cross-examine witnesses. Written findings and conclusions shall be issued. Should the record in question be found to be inaccurate or incomplete, the criminal justice agency or agencies maintaining such information shall purge, modify, or supplement it in accordance with the findings and conclusions of the Board. Notification of purging, modification, or supplementation of criminal history record information shall be promptly made by the criminal justice agency maintaining such previously inaccurate information to any individuals or agencies to which the information in question was communicated, as well as to the

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60 individual whose records have been ordered so altered.

61 D. Criminal justice agencies shall maintain records of all agencies to whom criminal history record
62 information was disseminated and the date upon which such information was disseminated and such
63 other record matter for the number of years required by rules and regulations of the Board.

64 E. Any individual or agency aggrieved by any order or decision of the Board may appeal such order
65 or decision in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

66 § 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

67 A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver,
68 or other weapon designed or intended to propel a missile of any kind; (ii) any dirk, bowie knife,
69 switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any
70 flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to
71 swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain;
72 (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed
73 to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any
74 weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1
75 misdemeanor. A second violation of this section or a conviction under this section subsequent to any
76 conviction under any substantially similar ordinance of any county, city, or town shall be punishable as
77 a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. Any
78 weapon used in the commission of a violation of this section shall be forfeited to the Commonwealth
79 and may be seized by an officer as forfeited, and such as may be needed for police officers,
80 conservators of the peace, and the Division of Forensic Science shall be devoted to that purpose, subject
81 to any registration requirements of federal law, and the remainder shall be disposed of as provided in
82 § 18.2-310. For the purpose of this section, a weapon shall be deemed to be hidden from common
83 observation when it is observable but is of such deceptive appearance as to disguise the weapon's true
84 nature.

85 B. This section shall not apply to:

86 1. Any person while in his own place of abode or the curtilage thereof;

87 2. Any police officers, including Capitol Police officers, sergeants, sheriffs, deputy sheriffs or regular
88 game wardens appointed pursuant to Chapter 2 (§ 29.1-200 et seq.) of Title 29.1;

89 3. Any regularly enrolled member of a target shooting organization who is at, or going to or from,
90 an established shooting range, provided that the weapons are unloaded and securely wrapped while being
91 transported;

92 4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or
93 from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped
94 while being transported;

95 5. Any person carrying such weapons between his place of abode and a place of purchase or repair,
96 provided the weapons are unloaded and securely wrapped while being transported;

97 6. Campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23;

98 7. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland
99 Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from
100 those conditions; and

101 8. Any State Police officer retired from the Department of State Police and any local
102 law-enforcement officer retired from a police department or sheriff's office within the Commonwealth (i)
103 with a service-related disability or (ii) following at least fifteen years of service, other than a person
104 terminated for cause, provided such officer carries with him written proof of consultation with and
105 favorable review of the need to carry a concealed weapon issued by the chief law-enforcement officer of
106 the agency from which the officer retired.

107 C. This section shall also not apply to any of the following individuals while in the discharge of
108 their official duties, or while in transit to or from such duties:

109 1. Carriers of the United States mail;

110 2. Officers or guards of any state correctional institution;

111 3. [Repealed.]

112 4. Conservators of the peace, except that the following conservators of the peace shall not be
113 permitted to carry a concealed weapon without obtaining a permit as provided in subsection D hereof:
114 (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle
115 carrier of passengers for hire; or (d) commissioners in chancery;

116 5. Noncustodial employees of the Department of Corrections designated to carry weapons by the
117 Director of the Department of Corrections pursuant to § 53.1-29;

118 6. Law-enforcement agents of the Armed Forces of the United States and federal agents who are
119 otherwise authorized to carry weapons by federal law while engaged in the performance of their duties;

120 7. Law-enforcement agents of the United States Naval Criminal Investigative Service; and

121 8. Harbormaster of the City of Hopewell.

D. Any person twenty-one years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides for a five-year permit to carry a concealed handgun. Notwithstanding § 15.1-29.15, a county or city may enact an ordinance which requires any applicant for a concealed handgun permit to submit to fingerprinting for the purpose of obtaining the applicant's state or national criminal history record. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The court shall consult with the law-enforcement authorities of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency. The local agency shall then promptly notify the person that he has twenty-one days from the date of the notice to request return of the fingerprint cards. All fingerprint cards not claimed by the applicant within twenty-one days of notification by the local agency shall be destroyed. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit within forty-five days of receipt of the completed application unless it is determined that the applicant is disqualified. If the applicant is later found by the court to be disqualified, the permit shall be revoked.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to §§ 18.2-308.1:1, 18.2-308.1:2 or § 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to former § 37.1-134.1 or § 37.1-134.16 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions or reckless driving shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance or of public drunkenness within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who it is alleged, in a sworn written statement submitted to the court by the sheriff, chief of police or attorney for the Commonwealth in the opinion of such sheriff, chief of police or attorney for the Commonwealth, is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police or the attorney for the Commonwealth shall be based upon personal knowledge or upon the sworn written statement of a competent person having personal knowledge.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or § 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within sixteen years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

G. The court may further require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

6. Obtaining or previously having held a license to carry a firearm in this Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class conducted by a state-certified or National Rifle Association-certified firearms instructor; or

8. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

H. The permit to carry a concealed handgun shall specify the name, address, date of birth, gender, social security number, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, or of the clerk of court who has been authorized to sign such permits by the issuing judge; the date of issuance; and the expiration date. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and must display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.

I. Persons who previously have held a concealed weapons permit shall be issued, upon application as provided in subsection D, a new five-year permit unless there is good cause shown for refusing to reissue a permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application and request of the applicant made within ten days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed. The final order of the court shall include the court's findings of fact and conclusions of law.

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event which would disqualify a person from obtaining a concealed weapons permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event.

J1. Any person permitted to carry a concealed weapon under this section, who is under the influence of alcohol or illegal drugs while carrying such weapon in a public place, shall be guilty of a Class 1 misdemeanor.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in

subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending.

13. No person shall carry a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia; however, nothing herein shall prohibit any owner or event sponsor or his employees from carrying a concealed handgun while on duty at such restaurant or club if such person has a concealed handgun permit.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a law-enforcement officer with the Department of State Police or with a sheriff or police department, bureau or force of any political subdivision of the Commonwealth of Virginia, after completing twenty years' service or after reaching age fifty-five; or (iii) to any person who has retired after completing twenty years' service or after reaching age fifty-five from service as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration or Naval Criminal Investigative Service. The clerk shall charge a fee of ten dollars for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed thirty-five dollars to cover the cost of conducting an investigation pursuant to this section. The thirty-five-dollar fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed five dollars to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed fifty dollars, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes.

L. Any person denied a permit to carry a concealed weapon under the provisions of this section may, within thirty days of the final decision, present a petition for review to the Court of Appeals or any judge thereof. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of § 17-116.07 B, the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

N. As used in this article:

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

O. The granting of a concealed handgun permit shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

P. A valid concealed handgun permit or license issued by another state shall be valid in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible twenty-four hours a day, (ii) the requirements and qualifications of that state's law are substantially similar to or exceed the provisions of this section, and (iii) a state meeting the requirements and qualifications of this section grants the same privilege to residents of the Commonwealth who have valid concealed handgun permits in their possession while carrying concealed weapons in that state. The Superintendent of State Police

shall (a) in consultation with the Office of the Attorney General determine which states meet the requirements and qualifications of this section, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law-enforcement officers for investigative purposes.

Q. The provisions of this statute or the application thereof to any person or circumstances which are held invalid shall not affect the validity of other provisions or applications of this statute which can be given effect without the invalid provisions or applications. This subsection is to reiterate § 1-17.1 and is not meant to add or delete from that provision.

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

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with regulations and procedures promulgated by the Criminal Justice Services Board to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9-169, 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 thirty days;

2. Such other individuals and agencies which 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 and/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 which 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 which 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 for the conduct of investigations of applicants for public 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;

8. Public or private agencies when and as required by federal or state law or interstate compact to investigate applicants for foster or adoptive parenthood 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;

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 § 9-169 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 (i) with a Virginia affiliate of Big Brothers/Big Sisters of America, (ii) with a volunteer fire company or volunteer rescue squad, or (iii) with the Volunteer Emergency Families for Children;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.1-195 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.1-198 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems; and foster and adoptive parent applicants of private child-placing

agencies, pursuant to § 63.1-198.1, 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 State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.);

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9-1, subject to the limitations set out in subsection E;

16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § 63.1-173.2, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed adult day-care centers pursuant to § 63.1-194.13, subject to the limitations set out in subsection F;

17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof in the course of conducting necessary investigations with respect to registered voters, limited to any record of felony convictions;

19. The Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-176, 19.2-177.1, 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 Mental Health, Mental Retardation and Substance Abuse Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Mental Health, Mental Retardation and Substance Abuse Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or parochial elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education;

24. State-supported colleges and universities for the purpose of screening individuals who are offered or accept public employment;

25. Executive directors of community services boards for the purpose of determining an individual's fitness for employment pursuant to § 37.1-197.2;

26. Executive directors of behavioral health authorities as defined in § 15.1-1677 for the purpose of determining an individual's fitness for employment pursuant to § 37.1-197.2;

27. The Commissioner of the Department 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; and

28. 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

429 subject, the person making the request shall be furnished at his cost a certification to that effect.

430 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
431 section shall be limited to the purposes for which it was given and may not be disseminated further.

432 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
433 history record information for employment or licensing inquiries except as provided by law.

434 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
435 Exchange prior to dissemination of any criminal history record information on offenses required to be
436 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
437 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
438 where time is of the essence and the normal response time of the Exchange would exceed the necessary
439 time period. A criminal justice agency to whom a request has been made for the dissemination of
440 criminal history record information that is required to be reported to the Central Criminal Records
441 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
442 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
443 made by the criminal justice agency maintaining the record as required by § 15.1-135.1.

444 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
445 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
446 for any offense specified in §§ 32.1-126.01, 32.1-126.02 and 32.1-162.9:1.

447 F. Criminal history information provided to licensed adult care residences, licensed district homes for
448 adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the
449 convictions on file with the Exchange for any offense specified in §§ 63.1-173.2, 63.1-189.1 or
450 § 63.1-194.13.

451 § 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records checks.

452 As a condition of employment, the governing boards or administrators of private or parochial
453 elementary or secondary schools which are accredited by a statewide accrediting organization
454 recognized, prior to January 1, 1996, by the State Board of Education shall require any applicant who
455 accepts employment after July 1, 1997, whether full-time or part-time, permanent or temporary, to
456 submit to fingerprinting and to provide personal descriptive information to be forwarded along with the
457 applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of
458 Investigation for the purpose of obtaining criminal history record information regarding such applicant.

459 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
460 record exists, shall report to the governing board or administrator that the applicant meets the criteria or
461 does not meet the criteria for employment based on whether or not the applicant has ever been
462 convicted of the following crimes or their equivalent if from another jurisdiction: murder, abduction for
463 immoral purposes as set out in § 18.2-48, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of
464 Chapter 4 of Title 18.2, failing to secure medical attention for an injured child, pandering as set out in
465 § 18.2-355, crimes against nature involving children as set out in § 18.2-361, taking indecent liberties
466 with children as set out in § 18.2-370 or § 18.2-370.1, neglect of children as set out in § 18.2-371.1, or
467 obscenity offenses as set out in § 18.2-374.1 or § 18.2-379, possession or distribution of drugs as set out
468 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et
469 seq.) of Chapter 5 of Title 18.2, use of a firearm in the commission of a felony as set out in
470 § 18.2-53.1, or an equivalent offense in another state.

471 The Central Criminal Records Exchange shall not disclose information to the governing board or
472 administrator regarding charges or convictions of any crimes. If any applicant is denied employment
473 because of information appearing on the criminal history record and the applicant disputes the
474 information upon which the denial was based, the Central Criminal Records Exchange shall, upon
475 request furnish the applicant the procedures for obtaining a copy of the criminal history record from the
476 Federal Bureau of Investigation. The information provided to the governing board or administrator shall
477 not be disseminated except as provided in this section.

478 In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State
479 Police may assess a fee for responding to requests required by this section which shall not exceed
480 fifteen dollars per request for a criminal records check.

481 For purposes of this section, "governing board" or "administrator" means the unit or board or person
482 designated to supervise operations of a system of private or parochial schools or a private or parochial
483 school accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the
484 State Board of Education. Nothing in this section or § 19.2-389 shall be construed to require any private
485 or parochial school which is not so accredited to comply with this section.

486 2. That § 54.1-3925.2 of the Code of Virginia is repealed.