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**HOUSE BILL NO. 2086**

Offered January 13, 2021

Prefiled January 12, 2021

*A BILL to amend and reenact §§ 19.2-389, as it is currently effective and as it shall become effective, 22.1-289.035 and 22.1-289.039, as they shall become effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia, relating to child care providers; background checks; portability.*

Patron—McGuire

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-389, as it is currently effective and as it shall become effective, 22.1-289.035 and 22.1-289.039, as they shall become effective, 63.2-1720.1, and 63.2-1724 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-389. (Effective until July 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, 4, and 6 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

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59 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
60 with a conviction record would be compatible with the nature of the employment under consideration;

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

68 9. To the extent permitted by federal law or regulation, public service companies as defined in  
69 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
70 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
71 with the nature of the employment under consideration;

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

74 11. A person requesting a copy of his own criminal history record information as defined in  
75 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
76 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
77 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
78 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
79 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
80 Solvers or Crime Line program as defined in § 15.2-1713.1;

81 12. Administrators and board presidents of and applicants for licensure or registration as a child  
82 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
83 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
84 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved  
85 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,  
86 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction  
87 that the data shall not be further disseminated by the facility or agency to any party other than the data  
88 subject, the Commissioner of Social Services' representative or a federal or state authority or court as  
89 may be required to comply with an express requirement of law for such further dissemination; *however,*  
90 *nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services'*  
91 *representative from issuing written certifications regarding the results of a background check that was*  
92 *conducted before July 1, 2021, in accordance with subsection J of § 63.2-1720.1 or § 63.2-1724;*

93 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
94 offered or who accept public school employment and those current school board employees for whom a  
95 report of arrest has been made pursuant to § 19.2-83.1;

96 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
97 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
98 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth  
99 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

104 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
105 investigations of applicants for compensated employment in licensed assisted living facilities and  
106 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

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

109 18. The State Board of Elections and authorized officers and employees thereof and general registrars  
110 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to  
111 voter registration, limited to any record of felony convictions;

112 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
113 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
114 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

115 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
116 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first  
117 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

118 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
119 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
120 purpose of determining applicants' fitness for employment or for providing volunteer or contractual

121 services;

122 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
123 Department for the purpose of determining an individual's fitness for employment pursuant to  
124 departmental instructions;

125 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
126 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
127 records information on behalf of such governing boards or administrators pursuant to a written  
128 agreement with the Department of State Police;

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

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

137 26. Executive directors of community services boards or the personnel director serving the  
138 community services board for the purpose of determining an individual's fitness for employment,  
139 approval as a sponsored residential service provider, or permission to enter into a shared living  
140 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to  
141 §§ 37.2-506 and 37.2-607;

142 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
143 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
144 or permission to enter into a shared living arrangement with a person receiving medical assistance  
145 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

149 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
150 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
151 purpose of determining if any applicant who accepts employment in any direct care position or requests  
152 approval as a sponsored residential service provider or permission to enter into a shared living  
153 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
154 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
155 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and  
156 37.2-607;

157 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
158 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
159 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

181 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening

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

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

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

195 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
196 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
197 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
198 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

202 43. The Department of Social Services and directors of local departments of social services for the  
203 purpose of screening individuals seeking to enter into a contract with the Department of Social Services  
204 or a local department of social services for the provision of child care services for which child care  
205 subsidy payments may be provided;

206 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of  
207 a juvenile's household when completing a predispositional or postdispositional report required by §  
208 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

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

211 46. Other entities as otherwise provided by law.

212 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
213 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
214 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
215 designated in the order on whom a report has been made under the provisions of this chapter.

216 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
217 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
218 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
219 copy of conviction data covering the person named in the request to the person making the request;  
220 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
221 making of such request. A person receiving a copy of his own conviction data may utilize or further  
222 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
223 subject, the person making the request shall be furnished at his cost a certification to that effect.

224 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
225 section shall be limited to the purposes for which it was given and may not be disseminated further,  
226 *except as otherwise provided in subdivision A 12.*

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

229 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
230 Exchange prior to dissemination of any criminal history record information on offenses required to be  
231 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
232 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
233 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
234 time period. A criminal justice agency to whom a request has been made for the dissemination of  
235 criminal history record information that is required to be reported to the Central Criminal Records  
236 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
237 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
238 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

242 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
243 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 July 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, 4, and 6 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 foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, 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; *however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039 (formerly § 63.2-1720.1 or § 63.2-1724);*

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 casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, 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

428 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
429 program administered by the Department of Medical Assistance Services;

430 38. The State Corporation Commission for the purpose of investigating individuals who are current  
431 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
432 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of  
433 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in  
434 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,  
435 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such  
436 information to the applicant or its designee;

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

439 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
440 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
441 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
442 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

446 43. The Department of Education or its agents or designees for the purpose of screening individuals  
447 seeking to enter into a contract with the Department of Education or its agents or designees for the  
448 provision of child care services for which child care subsidy payments may be provided;

449 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of  
450 a juvenile's household when completing a predispositional or postdispositional report required by §  
451 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

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

454 46. Administrators and board presidents of and applicants for licensure or registration as a child day  
455 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
456 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
457 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
458 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the  
459 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's  
460 representative, or a federal or state authority or court as may be required to comply with an express  
461 requirement of law for such further dissemination; and

462 47. Other entities as otherwise provided by law.

463 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
464 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
465 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
466 designated in the order on whom a report has been made under the provisions of this chapter.

467 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
468 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
469 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
470 copy of conviction data covering the person named in the request to the person making the request;  
471 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
472 making of such request. A person receiving a copy of his own conviction data may utilize or further  
473 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
474 subject, the person making the request shall be furnished at his cost a certification to that effect.

475 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
476 section shall be limited to the purposes for which it was given and may not be disseminated further,  
477 *except as otherwise provided in subdivision A 12.*

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

480 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
481 Exchange prior to dissemination of any criminal history record information on offenses required to be  
482 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
483 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
484 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
485 time period. A criminal justice agency to whom a request has been made for the dissemination of  
486 criminal history record information that is required to be reported to the Central Criminal Records  
487 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
488 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
489 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.

**§ 22.1-289.035. (Effective July 1, 2021) Licensed child day centers, family day homes, and family day systems; 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 or its agents or designees 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;

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 for any founded complaint of child abuse or neglect against him; and

4. 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 criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

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 or its designee, and the Department or its designee 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 or its designee is lacking disposition data, the Department or its designee 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, family day home, or family day system.

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 (i) 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 or (ii) *except as provided in subsection J.*

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.

*J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child welfare agency described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child welfare agency shall, upon the individual's written consent, obtain written certification from the Department that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.*

**§ 22.1-289.039. (Effective July 1, 2021) Records check by unlicensed child day center; penalty.**

A. 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~~ *Except as otherwise provided in subsection B, dissemination of the information provided to the facility is prohibited.*

*B. Notwithstanding the provisions of subsection A, a background check shall not be required for any prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center if the individual has completed a background check under the provisions of subsection A within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual (a) is an employee or volunteer of any child day center that is exempt from licensure pursuant to § 22.1-289.031 or any child welfare agency set forth in subsection A of § 22.1-289.035 or (b) has been*

separated from such employment or volunteer position for not more than 180 days. Prior to hiring, allowing to volunteer, or allowing to be alone with one or more children any individual without the completion of a background check under the provisions of subsection A, the child day center shall, upon the individual's written consent, obtain written certification from the Department that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer or otherwise be alone with children at the child day center. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

**§ 63.2-1720.1. (Repealed effective July 1, 2021) 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 § 63.2-1716, 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 or a local 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;

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 for any founded complaint of child abuse or neglect against him; and

4. 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 criminal history record information check, a sex offender registry check, and a search of the child abuse and neglect registry or equivalent registry from any state in which the individual has resided in the preceding five years.

The individual'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 individual. Upon receipt of the individual'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, 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 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, family day home, or family day system.

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 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.

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.

J. *Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child welfare agency described in subsection A. Prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child welfare agency shall, upon the individual's written consent, obtain written certification from the Department that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child welfare agency, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.*

**§ 63.2-1724. (Repealed effective July 1, 2021) Records check by unlicensed child day center; penalty.**

A. Any child day center that is exempt from licensure pursuant to § 63.2-1716 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 § 63.2-1720.1. A child day center that is exempt from licensure pursuant to § 63.2-1716 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~~ Except as provided in subsection B, dissemination of the information provided to the facility is prohibited.

B. *Notwithstanding the provisions of subsection A, a background check shall not be required for any prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center if the individual has completed a background check under the provisions of subsection A within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual (a) is an employee or volunteer of any child day center that is exempt from licensure pursuant to § 63.2-1716 or any child welfare agency set forth in subsection A of § 63.2-1720.1 or (b) has been separated from such employment or volunteer position for not more than 180 days. Prior to hiring, allowing to volunteer, or allowing to be alone with one or more children any individual without the completion of a background check under the provisions of subsection A, the child day center shall, upon the individual's written consent, obtain written certification from the Department that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer or otherwise be alone with children at the child day center. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.*