

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 670

An Act to amend and reenact §§ 22.1-296.1, 22.1-296.2, and 22.1-349 of the Code of Virginia, relating to public schools; background checks; Virginia School for the Deaf and the Blind.

[S 825]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-296.1, 22.1-296.2, and 22.1-349 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-296.1. Data on convictions for certain crimes and child abuse and neglect required; penalty.

A. As a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board shall require on its application for employment certification of whether the applicant has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude. Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, in the case of a teacher, upon conviction, the fact of such conviction is grounds for the Board to revoke his license to teach.

B. No school board shall employ any individual who has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

C. Any school board may employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

D. Every school board shall also require on its application for employment, as a condition of employment requiring direct contact with students, whether full-time or part-time, permanent, or temporary, certification that the applicant has not been the subject of a founded case of child abuse and neglect. Any person making a materially false statement regarding a finding of child abuse and neglect is guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction is grounds for the Board of Education to revoke such person's license to teach.

E. As a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the school board shall require the contractor to provide certification of whether any individual who will provide such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude.

Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction is grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. School boards shall not be liable for materially false statements regarding the certifications required by this subsection.

This subsection shall not apply to a contractor or his employees providing services to a school division in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it is reasonably anticipated that the contractor or his employees will have no direct contact with students.

F. No school board shall award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

G. Any school board may award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights

restored by the Governor.

H. For the purposes of this section, "school board" includes the Board of Visitors of the Virginia School for the Deaf and the Blind, which, for the purpose of receiving criminal history record information pertaining to an application for employment from the Central Criminal Records Exchange, shall be a governmental entity.

§ 22.1-296.2. Fingerprinting required; reciprocity permitted.

A. As a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment, whether full time or part time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the school board, *which shall be a governmental entity*, whether or not the applicant has ever been convicted of a felony or a Class 1 misdemeanor or an equivalent offense in another state.

To conserve the costs of conducting criminal history record checks to applicants and school boards, upon the written request and permission of the applicant, a school board shall inform another school board with which reciprocity has been established, and to which the applicant also has applied for employment, of the results of the criminal history record information conducted within the previous 90 days that it obtained concerning the applicant. Criminal history record information pertaining to an applicant for employment by a school board shall be exchanged only between school boards in the Commonwealth in which a current agreement of reciprocity for the exchange of such information has been established and is in effect. Reciprocity agreements between school boards shall provide for the apportionment of the costs of the fingerprinting or criminal records check between the applicant and the school board, as prescribed in this section. However, school boards that enter into reciprocity agreements shall not each levy the costs of the fingerprinting or criminal records check on the applicant.

B. The division superintendent shall inform the relevant school board of any notification of arrest of a school board employee received pursuant to § 19.2-83.1. The school board shall require such employee, whether full time or part time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such employee. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an employee's record or notification that no record exists, shall report to the school board whether or not the employee has been convicted of any of the offenses listed in subsection A. The contents of the employee's record shall be used by the school board solely to implement the provisions of §§ 22.1-307 and 22.1-315.

C. The Central Criminal Records Exchange shall not disclose information to the school board regarding charges or convictions of any crimes not specified in this section. If an applicant is denied employment or a current employee is suspended or dismissed because of information appearing on his criminal history record, the school board shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant or employee. The information provided to the school board shall not be disseminated except as provided in this section.

D. For the purposes of this section, "school board" includes the Board of Visitors of the Virginia School for the Deaf and the Blind, which, for the purpose of receiving criminal history record information pertaining to an application for employment from the Central Criminal Records Exchange, shall be a governmental entity.

§ 22.1-349. Terms of employment of teachers.

For the purpose of retirement and other statutory benefits, teachers employed as full-time instructional personnel by the Board of Visitors shall be deemed to be full-time state personnel and shall receive the same benefits as are accorded all other full-time state personnel. The Board of Visitors shall require the teachers at the Virginia School for the Deaf and the Blind to comply with the provisions of §§ 22.1-298.1, 22.1-299, and 22.1-303. *The Board of Visitors shall require any applicant for employment as full-time instructional personnel or other position requiring as a condition of employment direct contact with students to submit to a fingerprinting and criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation, in accordance with the provisions of §§ 22.1-296 and 22.1-296.1. The Board of Visitors shall be deemed a governmental entity for the purpose of receiving from the Central Criminal Records Exchange any criminal history record information pertaining to an application for employment.* Contracts for the employment of teachers shall

be in the form prescribed by the school board of the school division in which the school is located. In cases of nonrenewal of contracts of probationary teachers, the decisions shall be appealable to the Board of *Visitors*. For all other purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia School for the Deaf and the Blind.

The Board of *Visitors* shall establish salary schedules for all professional personnel ~~which~~ *that* are competitive with those in effect for the school divisions in which the facility is located.