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HOUSE BILL NO. 1366

Offered January 15, 2024

A BILL to amend the Code of Virginia by adding a section numbered 63.2-325.1, relating to local departments of social services; employee criminal background checks.

Patron—Delaney

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 63.2-325.1 as follows:

§ 63.2-325.1. Criminal background checks required.

A. The local board shall require all employees, contractors, or final candidates for employment within the local department who meet the requirements of this subsection to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the individual's fingerprints to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such individual. The local department shall conduct a criminal background check for any individual:

1. Who is responsible for the health, safety, and welfare of citizens;

2. With access to sensitive or confidential information, including access to federal tax information, in approved exchange agreements with the Internal Revenue Service or Social Security Administration; or

3. Who is otherwise required by state or federal law or local ordinance to be subject to criminal background checks.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists for that individual, shall make a report to the local board or local director.

B. Individuals subject to a background check pursuant to subsection A shall also be subject to a search of the Central Registry or other child abuse and neglect database maintained by another jurisdiction. The Central Registry or other child abuse and neglect database shall report the results of such search to:

1. The local board or its designee if the search request concerns a local director or an applicant for local director; or

2. The local director if the search request concerns any other employment position at the local department.

C. No local department shall hire for compensated employment or continue to employ any person who has been convicted of any criminal offense that relates to an employment position under a policy that includes the following determining criteria: (i) the nature and seriousness of the crime; (ii) the relationship of the crime to the work to be performed in the position applied for; (iii) the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person has been involved; (iv) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the position being sought; (v) the extent and nature of the person's past criminal activity; (vi) the age of the person at the time of the commission of the crime; (vii) the amount of time that has elapsed since the person's last involvement in the commission of a crime; (viii) the conduct and work activity of the person prior to and following the criminal activity; and (ix) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

D. If a candidate for employment is denied employment because of information from the Central Criminal Records Exchange, Central Registry, or other child abuse and neglect database, the local department shall notify the candidate for employment that such information contributed to the denial of suitability for employment. If an employee or contractor is determined no longer suitable for a position, employment, or assignment because of information from the Central Criminal Records Exchange, Central Registry, or other child abuse and neglect database, the local department shall notify the employee or contractor that such information contributed to the suitability determination.

E. At the Commissioner's request, the local department shall provide any background check information obtained pursuant to this section to the Commissioner. Further dissemination of such information is prohibited by anyone other than the Commissioner or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

INTRODUCED

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