

24101308D

**HOUSE BILL NO. 485**  
Offered January 10, 2024  
Prefiled January 8, 2024

A *BILL to amend and reenact §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4 of the Code of Virginia, relating to school boards; employee background checks and applications; penalty for noncompliance.*

Patron—Garrett

Referred to Committee on Education

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

**1. That §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4 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 (i) *the position is full-time or part-time;*; permanent; or temporary; or *in-person, remote, or some combination thereof* or (ii) *the employee is fully licensed, provisionally licensed, or unlicensed*, 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 the solicitation of any such offense; 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 of, physical or sexual abuse, or rape of a child, or the solicitation of any such offense.

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, or the solicitation of any such offense, 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 (i) *the position is full-time or part-time;*; permanent; or temporary; or *in-person, remote, or some combination thereof* or (ii) *the employee is fully licensed, provisionally licensed, or unlicensed*, 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 such conviction is grounds for the Board 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 the solicitation of any such offense; 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, or the solicitation of any such

59 offense.

60 G. Any school board may award a contract for the provision of services that require the contractor or his  
61 employees to have direct contact with students on school property during regular school hours or during  
62 school-sponsored activities when any individual who provides such services has been convicted of any felony  
63 or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-  
64 392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, or the  
65 solicitation of any such offense, provided that in the case of a felony conviction, such individual has had his  
66 civil rights restored by the Governor.

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

71 **§ 22.1-296.2. Fingerprinting required; reciprocity permitted.**

72 A. As a condition of employment, the school boards of the Commonwealth shall require any applicant  
73 who is offered or accepts employment, whether (i) *the position is full time or part time* ~~or~~; permanent or  
74 temporary; *or in-person, remote, or some combination thereof* or (ii) *the employee is fully licensed,*  
75 *provisionally licensed, or unlicensed,* to submit to fingerprinting and to provide personal descriptive  
76 information to be forwarded along with the applicant's fingerprints through the Central Criminal Records  
77 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record  
78 information regarding such applicant. The school board may ~~(i)~~ (a) pay for all or a portion of the cost of the  
79 fingerprinting or criminal records check or ~~(ii)~~ (b) in its discretion, require the applicant to pay for all or a  
80 portion of the cost of such fingerprinting or criminal records check.

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

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

96 B. The division superintendent shall inform the relevant school board of any notification of arrest of a  
97 school board employee received pursuant to § 19.2-83.1. The school board shall require such employee,  
98 whether (i) *the position is full time or part time* ~~or~~; permanent or temporary; *or in-person, remote, or some*  
99 *combination thereof* or (ii) *the employee is fully licensed, provisionally licensed, or unlicensed,* to submit to  
100 fingerprinting and to provide personal descriptive information to be forwarded along with the employee's  
101 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the  
102 purpose of obtaining criminal history record information regarding such employee. The school board may ~~(i)~~  
103 (a) pay for all or a portion of the cost of the fingerprinting or criminal records check or ~~(ii)~~ (b) in its  
104 discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal  
105 records check.

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

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

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

120 E. *In the event that any school board fails or refuses to perform its duty to require any employee to*

121 *undergo a criminal history record records check as set forth in subsections A and B, each individual member*  
122 *of such board is guilty of a Class 3 misdemeanor and his position on such school board shall be deemed*  
123 *vacant.*

124 **§ 22.1-296.4. Child abuse and neglect data required.**

125 A. Every school board and every governing board or administrator of a private school accredited pursuant  
126 to § 22.1-19 shall require, as a condition of employment, that any applicant who is offered or accepts  
127 employment requiring direct contact with students, whether *(i) the position is full-time or part-time;;*  
128 *permanent or temporary;; or in-person, remote, or some combination thereof or (ii) the employee is fully*  
129 *licensed, provisionally licensed, or unlicensed,* provide written consent and the necessary personal  
130 information for the school board, governing board, or administrator to obtain a search of the registry of  
131 founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to §  
132 63.2-1515. The school board, governing board, or administrator shall ensure that all such searches are  
133 requested in conformance with the regulations of the Board of Social Services. In addition, where the  
134 applicant has resided in another state within the last five years, the school board, governing board, or  
135 administrator shall require as a condition of employment that such applicant provide written consent and the  
136 necessary personal information for the school board, governing board, or administrator to obtain information  
137 from each relevant state as to whether the applicant was the subject of a founded complaint of child abuse and  
138 neglect in such state. The school board, governing board or administrator shall take reasonable steps to  
139 determine whether the applicant was the subject of a founded complaint of child abuse and neglect in the  
140 relevant state. The Department of Social Services shall maintain a database of central child abuse and neglect  
141 registries in other states that provide access to out-of-state school boards, for use by local school boards,  
142 governing boards, and administrators. The applicant may be required to pay the cost of any search conducted  
143 pursuant to this subsection at the discretion of the school board, governing board, or administrator. From such  
144 funds as may be available for this purpose, however, the school board or the governing board or administrator  
145 may pay for the search.

146 The Department of Social Services shall respond to such request by the school board, governing board, or  
147 administrator in cases where there is no match within the central registry regarding applicants for  
148 employment within 10 business days of receipt of such request. In cases where there is a match within the  
149 central registry regarding applicants for employment, the Department of Social Services shall respond to such  
150 request by the school board, governing board, or administrator within 30 business days of receipt of such  
151 request. The request and response may be sent electronically or by first-class mail or facsimile transmission.

152 B. If the response obtained pursuant to subsection A indicates that the applicant is the subject of a founded  
153 case of child abuse and neglect, such applicant shall be denied employment or the employment shall be  
154 rescinded.

155 C. If an applicant is denied employment because of information appearing on his record in the registry,  
156 the school board, governing board, or administrator shall provide a copy of the information obtained from the  
157 registry to the applicant. The information provided to the school board, governing board, or administrator by  
158 the Department of Social Services shall be confidential and shall not be disseminated by the school board,  
159 governing board, or administrator.