

2026 SESSION

INTRODUCED

26101950D

1 **HOUSE BILL NO. 1060**

2 Offered January 14, 2026

3 Prefiled January 14, 2026

4 *A BILL to amend and reenact §§ 63.2-901.1, 63.2-1721, and 63.2-1722 of the Code of Virginia, relating to*
5 *foster and adoptive homes; barrier crimes; exceptions.*

6 Patron—Callsen

7 Referred to Committee on Health and Human Services

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

9 **1. That §§ 63.2-901.1, 63.2-1721, and 63.2-1722 of the Code of Virginia are amended and reenacted as**
10 **follows:**

11 **§ 63.2-901.1. Criminal history and central registry check for placements of children.**

12 A. Each local board and licensed child-placing agency shall obtain, in accordance with regulations
13 adopted by the Board, criminal history record information from the Central Criminal Records Exchange and
14 the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a
15 search of the child abuse and neglect central registry of any individual with whom the local board or licensed
16 child-placing agency is considering placing a child on an emergency, temporary or permanent basis,
17 including the birth parent of a child in foster care placement, unless the birth parent has revoked an
18 entrustment agreement pursuant to § 63.2-1223 or 63.2-1817 or a local board or birth parent revokes a
19 placement agreement while legal custody remains with the parent, parents, or guardians pursuant to
20 § 63.2-900. The local board or licensed child-placing agency shall also obtain such background checks on all
21 adult household members residing in the home of the individual with whom the child is to be placed pursuant
22 to subsection B. Such state criminal records or registry search shall be at no cost to the individual. The local
23 board or licensed child-placing agency shall pay for the national fingerprint criminal history record check or
24 may require such individual to pay the cost of the fingerprinting or the national fingerprinting criminal
25 history record check or both. In addition to the fees assessed by the Federal Bureau of Investigation, the
26 designated state agency may assess a fee for responding to requests required by this section.

27 B. Background checks pursuant to this section require the following:

28 1. A sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or
29 is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the
30 individual has been the subject of a founded complaint of child abuse or neglect within or outside the
31 Commonwealth;

32 2. That the individual submit to fingerprinting and provide personal descriptive information to be
33 forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the
34 Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The local
35 board or licensed child-placing agency shall inform the individual that he is entitled to obtain a copy of any
36 background check report and to challenge the accuracy and completeness of any such report and obtain a
37 prompt resolution before a final decision is made of the individual's fitness to have responsibility for the
38 safety and well-being of children.

39 The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no
40 record exists, shall forward it to the designated state agency. The state agency shall, upon receipt of an
41 individual's record lacking disposition data, conduct research in whatever state and local recordkeeping
42 systems are available in order to obtain complete data. The state agency shall report to the local board or
43 licensed child-placing agency whether the individual meets the criteria for having responsibility for the safety
44 and well-being of children based on whether or not the individual has ever been convicted of or is the subject
45 of pending charges for any barrier crime as defined in § 19.2-392.02. Copies of any information received by a
46 local board or licensed child-placing agency pursuant to this section shall be available to the state agency that
47 regulates or operates such a child-placing agency but shall not be disseminated further; and

48 3. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child
49 abuse or neglect. In addition, a search of the child abuse and neglect registry maintained by any other state
50 pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248, in which a
51 prospective parent or other adult in the home has resided in the preceding five years.

52 C. In emergency circumstances, each local board may obtain, from a criminal justice agency, criminal
53 history record information from the Central Criminal Records Exchange and the Federal Bureau of
54 Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search
55 authorized by this section. Within three days of placing a child, the local board shall require the individual for
56 whom a criminal history record information check was requested to submit to fingerprinting and provide

INTRODUCED

HB1060

59 personal descriptive information to be forwarded along with the fingerprints through the Central Criminal
60 Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history
61 information, pursuant to subsection B. The child shall be removed from the home immediately if any adult
62 resident fails to provide such fingerprints and written permission to perform a criminal history record check
63 when requested.

64 D. Any individual with whom the local board is considering placing a child on an emergency basis shall
65 submit to a search of the central registry maintained pursuant to § 63.2-1515 and the Adam Walsh Child
66 Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or neglect. The
67 search of the central registry must occur prior to emergency placement. Such central registry search shall be
68 at no cost to the individual. Prior to emergency placement, the individual shall provide a written statement of
69 affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within
70 or outside the Commonwealth. Child-placing agencies shall not approve individuals with a founded
71 complaint of child abuse as foster or adoptive parents.

72 E. *The* A local board or child-placing agency shall not approve a foster or adoptive home, *including a*
73 *kinship foster home*, if any individual has been convicted of any barrier crime as defined in § 19.2-392.02 or
74 is the subject of a founded complaint of abuse or neglect as maintained in registries pursuant to § 63.2-1515
75 and 42 U.S.C.S. U.S.C. 16901 et seq.

76 F. *A local board or child-placing agency may approve as a foster parent or adoptive home, including a*
77 *kinship foster home, where an applicant who has and any adult household member have each been convicted*
78 *of not more than one misdemeanor as set out in § 18.2-57, or any substantially similar offense under the laws*
79 *of another jurisdiction, not involving the abuse, neglect, or moral turpitude of a minor, provided that 10 years*
80 *have elapsed following the conviction.*

81 F. G. A local board or child-placing agency may approve as a kinship foster care parent home where an
82 applicant who has and any adult household member have been convicted of the following offenses, provided
83 that the local board or child-placing agency makes a specific finding that approving the kinship foster care
84 placement would not adversely affect the safety and well-being of the child: (i) any offense set forth in the
85 definition of barrier crime in § 19.2-392.02 clause (iv), provided that five years have elapsed from the date of
86 the conviction; (ii) any misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar
87 offense under the laws of another jurisdiction, not involving a minor, provided that five years have elapsed
88 from the date of the conviction; or (iii) any misdemeanor offense under § 18.2-80, 18.2-81, 18.2-83, 18.2-87,
89 18.2-87.1, or 18.2-88 or any substantially similar offense under the laws of another jurisdiction provided that
90 10 years have elapsed from the date of the conviction.

91 H. *A local board or child-placing agency may approve a foster or adoptive home, including a kinship*
92 *foster home, where an applicant and any adult household member have been convicted of any offense set*
93 *forth in clause (iv) of the definition of barrier crime in § 19.2-392.02, so long as (i) the individual has had*
94 *their civil rights restored by the Governor or other appropriate authority and 10 years have elapsed*
95 *following the conviction or (ii) eight years have elapsed following the conviction and the individual (a) has*
96 *complied with all obligations imposed by the criminal court, (b) has completed a substance abuse treatment*
97 *program, (c) has completed a drug test administered by a laboratory or medical professional within 90 days*
98 *prior to being approved and such test returned with a negative result, and (d) complies with any other*
99 *obligations as determined by the Department.*

100 I. *A local board or child-placing agency may approve a foster or adoptive home, including a kinship*
101 *foster home, where an applicant and any adult household member have been convicted of any offense set*
102 *forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, so long as the individual has had their*
103 *civil rights restored by the Governor or other appropriate authority and 20 years have elapsed following the*
104 *conviction.*

105 G. J. Any individual participating in the Fostering Futures program, which allows local departments to
106 continue to provide foster care services to individuals who are 18 years of age or older but have not reached
107 21 years of age, who is placed in a foster home shall be subject to the background check requirements set
108 forth in subsection B. The results of such background check shall be used for the sole purpose of determining
109 whether other children should be placed or remain in the same foster home as the individual subject to the
110 background check. The results of the background check shall not be used to terminate or suspend the
111 approval of the foster home pursuant to subsection E. For purposes of this subsection, "individual
112 participating in the Fostering Futures program" means a person who is 18 years of age or older but has not
113 reached 21 years of age and is receiving foster care services through the Fostering Futures program.

114 **§ 63.2-1721. Background check upon application for licensure as a child-placing agency, etc.;**
115 **penalty.**

116 A. Upon application for licensure as a child-placing agency or independent foster home, (i) all applicants
117 and (ii) agents at the time of application who are or will be involved in the day-to-day operations of the
118 child-placing agency or independent foster home or who are or will be alone with, in control of, or
119 supervising one or more of the children shall undergo a background check pursuant to subsection B. Upon
120 application for licensure as an assisted living facility, all applicants shall undergo a background check

121 pursuant to subsection B. In addition, *all applicants and adult household members of applicants for foster or*
 122 *adoptive parents homes, including kinship foster homes*, requesting approval by child-placing agencies shall
 123 undergo background checks pursuant to subsection B prior to ~~their~~ the home's approval.

124 B. Background checks pursuant to subsection A require:

125 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the
 126 subject of any pending criminal charges within or outside the Commonwealth and whether or not the person
 127 has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

128 2. A criminal history records check through the Central Criminal Records Exchange pursuant to
 129 § 19.2-389; and

130 3. In the case of child-placing agencies, independent foster homes, or adoptive or foster parents, a search
 131 of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and
 132 neglect.

133 C. The person required to have a background check pursuant to subsection A shall submit the background
 134 check information required in subsection B to the Commissioner's representative prior to issuance of a
 135 license, registration or approval. The applicant, other than an applicant for licensure as an assisted living
 136 facility, shall provide an original criminal record clearance with respect to any barrier crime as defined in
 137 § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. An
 138 applicant for licensure as an assisted living facility shall provide an original criminal record clearance with
 139 respect to any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original
 140 criminal history record from the Central Criminal Records Exchange. Any person making a materially false
 141 statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a
 142 Class 1 misdemeanor. If any person specified in subsection A, other than an applicant for licensure as an
 143 assisted living facility, required to have a background check (i) has been convicted of any barrier crime as
 144 defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or
 145 outside the Commonwealth, and such person has not been granted a waiver by the Commissioner pursuant to
 146 § 63.2-1723 or is not subject to an exception in subsection E, F, G, or H, or I of § 63.2-901.1 (a) the
 147 Commissioner shall not issue a license to a child-placing agency or independent foster home or (b) a
 148 child-placing agency shall not approve an adoptive or foster home. If any applicant for licensure as an
 149 assisted living facility required to have a background check has been convicted of any offense set forth in
 150 clause (i) of the definition of barrier crime in § 19.2-392.02, the Commissioner shall not issue a license to an
 151 assisted living facility.

152 D. No person specified in subsection A shall be involved in the day-to-day operations of a licensed child-
 153 placing agency or independent foster home; be alone with, in control of, or supervising one or more children
 154 receiving services from a licensed child-placing agency or independent foster home; or be permitted to work
 155 in a position that involves direct contact with a person receiving services without first having completed
 156 background checks pursuant to subsection B unless such person is directly supervised by another person for
 157 whom a background check has been completed in accordance with the requirements of this section.

158 E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may
 159 approve as an adoptive or foster parent an applicant who has been convicted of not more than one
 160 misdemeanor offense as set out in § 18.2-57, or any substantially similar offense under the laws of another
 161 jurisdiction, not involving abuse, neglect, moral turpitude, or a minor, provided that 10 years have elapsed
 162 following the conviction.

163 F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may
 164 approve as a foster parent an applicant who has been convicted of statutory burglary for breaking and
 165 entering a dwelling home or other structure with intent to commit larceny, or any substantially similar offense
 166 under the laws of another jurisdiction, who has had his civil rights restored by the Governor or other
 167 appropriate authority, provided that 25 years have elapsed following the conviction.

168 G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may
 169 approve as an adoptive or foster parent an applicant convicted of any offense set forth in clause (iv) of the
 170 definition of barrier crime in § 19.2-392.02 who has had his civil rights restored by the Governor or other
 171 appropriate authority, provided that 10 years have elapsed following the conviction, or eight years have
 172 elapsed following the conviction and the applicant (i) has complied with all obligations imposed by the
 173 criminal court; (ii) has completed a substance abuse treatment program; (iii) has completed a drug test
 174 administered by a laboratory or medical professional within 90 days prior to being approved, and such test
 175 returned with a negative result; and (iv) complies with any other obligations as determined by the
 176 Department.

177 H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may
 178 approve as an adoptive or foster parent an applicant convicted of any offense set forth in clause (iii) of the
 179 definition of barrier crime in § 19.2-392.02 who has had his civil rights restored by the Governor or other
 180 appropriate authority, provided that 20 years have elapsed following the conviction.

181 I. E. If an applicant is denied licensure, registration or approval because of information from the central
 182 registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the

183 information obtained from the central registry or the Central Criminal Records Exchange or both to the
184 applicant.

185 *J. F.* Further dissemination of the background check information is prohibited other than to the
186 Commissioner's representative or a federal or state authority or court as may be required to comply with an
187 express requirement of law for such further dissemination.

188 **§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain
189 background check.**

190 A. The Commissioner may revoke or deny renewal of a license of a child welfare agency, assisted living
191 facility, or adult day center and a child-placing agency may revoke the approval of a foster home if the
192 assisted living facility, adult day center, child welfare agency, or foster home has knowledge that a person
193 specified in § 63.2-1720 or 63.2-1721 required to have a background check (i) has been convicted of any
194 barrier crime as defined in § 19.2-392.02 or (ii) in the case of a child welfare agency or foster home, is the
195 subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such
196 person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the
197 exceptions in subsection B of § 63.2-1720 or subsection E, F, G, or H, or I of § 63.2-1721 63.2-901.1, and the
198 facility, center, or agency refuses to separate such person from employment or service or allows the
199 household member to continue to reside in the home.

200 B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1721 shall be grounds for
201 denial, revocation, or termination of a license, registration, or approval or any contract with the Department
202 or a local department to provide child care services to clients of the Department or local department. No
203 violation shall occur if the assisted living facility, adult day center, child-placing agency, or independent
204 foster home has applied for the background check timely and it has not been obtained due to administrative
205 delay. The provisions of this section shall be enforced by the Department.