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SENATE BILL NO. 305

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend the Code of Virginia by adding a section numbered 63.2-901.2, relating to kinship foster care; barrier crime waiver.

Patron—Pekarsky

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 63.2-901.2 as follows:

§ 63.2-901.2. Barrier crime waivers for kinship foster parents.

A. No local board shall approve a kinship foster home, as permitted pursuant to 63.2-900.1, if any individual's background check conducted pursuant to § 63.2-901.1 returns a conviction for a barrier crime as defined in § 19.2-392.02 and the individual does not meet the exceptions in subsection E, F, or G of § 63.2-901.1 or subsection G or H of § 63.2-1721. However, if an individual or adult household member has been convicted of a barrier crime as defined in § 19.2-392.02 that is not identified as a federal barrier crime pursuant to 42 U.S.C. § 671(a)(20), the local department may apply to the Department on behalf of such individual for a barrier crime waiver.

B. Upon completion of a background check pursuant to § 63.2-901.1 for which a kinship foster home is rejected due to an individual's conviction for a barrier crime as defined in § 19.2-392.02, the Department shall provide information on the process for applying for a barrier crime waiver pursuant to this section with the notification of rejection.

C. In evaluating whether to submit an application for a barrier crime waiver pursuant to subsection A, the local department shall consider the following factors:

1. The type of crime for which the individual was convicted;
2. The number of convictions;
3. The nature of the offense or offenses;
4. The age of the individual at the time of each conviction;
5. The length of time that has elapsed since the last conviction;
6. The relationship between the crime for which the individual was convicted and the individual's children;
7. Any evidence of rehabilitation; and
8. Opinions of community members concerning the individual.

D. Prior to submitting an application pursuant to subsection A, the local department shall conduct an assessment related to the factors in subsection C as well as the individual's capacity to care for children and whether placement with the individual would support the child's permanency goals. If the local department determines that (i) there are no safety concerns regarding placement with the individual, (ii) such placement would be safe for the child, and (iii) such placement would be in the child's best interest, the local department shall submit an application for a barrier crime waiver for such individual pursuant to subsection A and a request to the Department that such application be approved. Such request shall include all relevant information used in the local department's assessment.

E. Upon receipt of both an application submitted pursuant to subsection A and a request for approval pursuant to subsection D, the Department shall conduct its evaluation and approve or deny the individual's barrier crime waiver. The Department shall notify the local department of its decision in writing.

2. The Department of Social Services shall promulgate regulations to implement the provisions of this act. The initial promulgation of regulations pursuant to this act shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).