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**HOUSE BILL NO. 258**

House Amendments in [ ] - February 2, 2026

*A BILL to amend and reenact §§ 9.1-914, 15.2-914, 15.2-2292, 18.2-371.1, 19.2-389, as it is currently effective and as it shall become effective, 20-124.6, 22.1-289.02, 22.1-289.04, 22.1-289.05:1 through 22.1-289.08, 22.1-289.010, 22.1-289.011, 22.1-289.012, 22.1-289.014 through 22.1-289.019, 22.1-289.021 through 22.1-289.028, 22.1-289.030, 22.1-289.035 through 22.1-289.038, 22.1-289.040 through 22.1-289.046, 22.1-289.049, 22.1-289.050, 22.1-289.055, 22.1-289.056, 22.1-289.059, 22.1-296.3, 32.1-46, 63.2-603, 63.2-1506, 63.2-1515, and 63.2-1527 of the Code of Virginia, relating to early childhood care and education; terminology.*

Patron Prior to Engrossment—Delegate Simonds

Referred to Committee on Education

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

**1. That §§ 9.1-914, 15.2-914, 15.2-2292, 18.2-371.1, 19.2-389, as it is currently effective and as it shall become effective, 20-124.6, 22.1-289.02, 22.1-289.04, 22.1-289.05:1 through 22.1-289.08, 22.1-289.010, 22.1-289.011, 22.1-289.012, 22.1-289.014 through 22.1-289.019, 22.1-289.021 through 22.1-289.028, 22.1-289.030, 22.1-289.035 through 22.1-289.038, 22.1-289.040 through 22.1-289.046, 22.1-289.049, 22.1-289.050, 22.1-289.055, 22.1-289.056, 22.1-289.059, 22.1-296.3, 32.1-46, 63.2-603, 63.2-1506, 63.2-1515, and 63.2-1527 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-914. Automatic notification of registration to certain entities; electronic notification to requesting persons.**

Any school or day-care service and child-minding service; state-regulated or state-licensed child day center, child day program, or ~~family day home~~ *home-based child care* as those terms are defined in § 22.1-289.02; assisted living facility, children's residential facility, or foster home as those terms are defined in § 63.2-100; nursing home or certified nursing facility as those terms are defined in § 32.1-123; association of a common interest community as defined in § 54.1-2345; and institution of higher education may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any offender and if such entities do not have the capability of receiving such electronic notice, the entity may register with the State Police to receive written notification of offender registration, reregistration, or verification of registration information. Within three business days of receipt by the State Police of registration, reregistration, or verification of registration information, the State Police shall electronically or in writing notify an entity listed above that has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The Virginia Council for Private Education shall annually provide the State Police, in an electronic format approved by the State Police, with the location of every private school in the Commonwealth that is accredited through one of the approved accrediting agencies of the Council, and an electronic mail address for each school if available, for purposes of receiving notice under this section.

Any person may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any offender. Within three business days of receipt by the State Police of registration, reregistration, or verification of registration information, the State Police shall electronically notify a person who has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The State Police shall establish reasonable guidelines governing the automatic dissemination of Registry information, which may include the payment of a fee, whether a one-time fee or a regular assessment, to maintain the electronic access. The fee, if any, shall defray the costs of establishing and maintaining the electronic notification system and notice by mail.

For the purposes of this section:

"Child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another;

"Day-care service" means provision of supplementary care and protection during a part of the day for the minor child of another; and

"School" means any public, religious or private educational institution, including any preschool, elementary school, secondary school, post-secondary school, trade or professional institution, or institution of

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higher education.

**§ 15.2-914. Regulation of child-care services and facilities in cities and certain counties.**

Any (i) county that has adopted the urban county executive form of government or (ii) city may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure that is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 22.1-289.031.

Except as otherwise provided in this section, such local ordinances shall not be more extensive in scope than comparable state regulations applicable to ~~family day homes~~ *home-based child care*. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities and may be more extensive in scope than comparable state statutes or regulations applicable to ~~family day homes~~ *home-based child care*. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children or the physical or sexual abuse or rape of a child or any barrier crime defined in § 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

**§ 15.2-2292. Zoning provisions for home-based child care.**

A. Zoning ordinances for all purposes shall consider a ~~family day home~~ *home-based child care* as defined in § 22.1-289.02, serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a ~~family day home~~ *home-based child care*, as defined in § 22.1-289.02, serving five through 12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the ~~family day home~~ *home-based child care* otherwise complies with the provisions of the ordinance and all other applicable local ordinances, the zoning administrator shall issue the permit sought. If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the ~~family day home~~ *home-based child care* otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration. The ordinance shall provide a process whereby an applicant for a ~~family day home~~ *home-based child care* that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.

**§ 18.2-371.1. Abuse and neglect of children; penalties; abandoned infant.**

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or willful omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child is guilty of a Class 4 felony. For purposes of this subsection, "serious injury" includes but is not limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, and (vii) life-threatening internal injuries. For purposes of this subsection, "willful act or willful omission" includes operating or engaging in

the conduct of a child welfare agency as defined in § 63.2-100 or a child day program or ~~family day home-based child care~~ system as defined in § 22.1-289.02 without first obtaining a license such person knows is required by Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2 or Article 3 (§ 22.1-289.010 et seq.) of Chapter 14.1 of Title 22.1 or after such license has been revoked or has expired and not been renewed.

B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life is guilty of a Class 6 felony.

2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child within the first 30 days of the child's life to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services personnel, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

C. 1. Any parent, guardian, or other person who is 18 years of age or older and is responsible for the care of a child under the age of 18 whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination pursuant to § 22.1-79.4 that the child poses a threat of violence or physical harm to self or others or (ii) when such parent, guardian, or other person responsible for the care of the child knows or reasonably should know that such child has charges pending for or has been convicted or adjudicated delinquent of a violent juvenile felony as defined in § 16.1-228 is guilty of a Class 5 felony.

2. No person shall be subject to arrest or prosecution for a violation of this subsection (i) related to clause (i) of subdivision 1 after such person has received notice that the threat assessment team that made such preliminary determination has concluded that the child does not indicate a threat of violence or physical harm to self or others or that any case or review opened or conducted by that threat assessment team as a result of such preliminary determination has been closed or (ii) related to clause (ii) of subdivision 1 after such person has received notice that any pending charge for a violent juvenile felony has been dismissed or a nolle prosequi has been entered.

3. It is an affirmative defense to prosecution for a violation of this subsection if the parent, guardian, or other person responsible for the care of a child caused or enabled such child to gain possession of a firearm while in a dwelling because of a reasonable belief that he or such child was in imminent danger of bodily injury.

D. Any parent, guardian, or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

**§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant

to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The Department of Social Services for the purpose of screening individuals as a condition of licensure, employment, volunteering, or providing services on a regular basis in a licensed child welfare agency pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency pursuant to § 63.2-901.1;

14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the

limitations set out in subsection E;

17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

19. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

23. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

25. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

27. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

29. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee

307 for Courts of Justice for the purpose of determining if any person being considered for election to any  
308 judgeship has been convicted of a crime;

309 33. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
310 determining an individual's fitness for employment in positions designated as sensitive under Department of  
311 Human Resource Management policies developed pursuant to § 2.2-1201.1;

312 34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
313 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
314 Predators Act (§ 37.2-900 et seq.);

315 35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
316 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
317 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
318 laborers, and other visitors;

319 36. Any employer of individuals whose employment requires that they enter the homes of others, for the  
320 purpose of screening individuals who apply for, are offered, or have accepted such employment;

321 37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
322 of adult foster care and home-based services or (ii) any individual with whom the agency is considering  
323 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the  
324 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
325 state authority or court as may be required to comply with an express requirement of law for such further  
326 dissemination, subject to limitations set out in subsection G;

327 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
328 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
329 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
330 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
331 administered by the Department of Medical Assistance Services;

332 39. The State Corporation Commission for the purpose of investigating individuals who are current or  
333 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
334 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
335 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
336 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
337 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
338 or its designee;

339 40. The Department of Professional and Occupational Regulation for the purpose of investigating  
340 individuals for initial licensure pursuant to § 54.1-2106.1;

341 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
342 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
343 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
344 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

345 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;

346 43. The State Treasurer for the purpose of determining whether a person receiving compensation for  
347 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

348 44. The Department of Education or its agents or designees for the purpose of screening individuals  
349 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
350 of child care services for which child care subsidy payments may be provided;

351 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
352 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
353 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

354 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
355 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

356 47. Administrators and board presidents of and applicants for licensure or registration as a child day  
357 program or ~~family day~~ *home-based child care* system, as such terms are defined in § 22.1-289.02, for  
358 dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the  
359 conduct of investigations with respect to employees of and volunteers at such facilities pursuant to  
360 §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further  
361 disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public  
362 Instruction's representative, or a federal or state authority or court as may be required to comply with an  
363 express requirement of law for such further dissemination; however, nothing in this subdivision shall be  
364 construed to prohibit the Superintendent of Public Instruction's representative from issuing written  
365 certifications regarding the results of prior background checks in accordance with subsection J of  
366 § 22.1-289.035 or § 22.1-289.039;

367 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
368 are offered or accept employment or will be providing volunteer or contractual services with the National

Center for Missing and Exploited Children;

49. The Executive Director or investigators of the Board of Accountancy for the purpose of the enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

50. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 47.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

**§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of

§ 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express



requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended care center for dissemination to the State Health Commissioner's representative pursuant to §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be further disseminated by the center to any party other than the data subject, the State Health Commissioner's representative, or a federal or state authority or court as may be required to comply with an express requirement of law;

14. The Department of Social Services for the purpose of screening individuals as a condition of licensure, employment, volunteering, or providing services on a regular basis in a licensed child welfare agency pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency pursuant to § 63.2-901.1;

15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to § 32.1-162.15:1.17;

18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

21. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

25. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

27. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose

that such disclosure was made to the threat assessment team;

29. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

31. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

35. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

38. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

40. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

41. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§ 6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

42. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

45. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

46. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

49. Administrators and board presidents of and applicants for licensure or registration as a child day program or ~~family day~~ *home-based child care* system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

50. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children;

51. The Executive Director or investigators of the Board of Accountancy for the purpose of the enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

52. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 49.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

679 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
680 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any  
681 offense specified in § 63.2-1720.

682 G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited  
683 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
684 crime in § 19.2-392.02.

685 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
686 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
687 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
688 request to the employer or prospective employer making the request, provided that the person on whom the  
689 data is being obtained has consented in writing to the making of such request and has presented a photo-  
690 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
691 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a  
692 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
693 Exchange.

694 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal  
695 history record information, including criminal history record information maintained in the National Crime  
696 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his  
697 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal  
698 history record information provided under this subsection shall be disseminated further.

699 **§ 20-124.6. Access to minor's records.**

700 A. Notwithstanding any other provision of law, neither parent, regardless of whether such parent has  
701 custody, shall be denied access to the academic or health records or records of a child day center or ~~family~~  
702 ~~day home~~ *home-based child care* of that parent's minor child, including any such records that are stored or  
703 accessible from a secure website, unless otherwise ordered by the court for good cause shown or pursuant to  
704 subsection B.

705 B. In the case of health records, access may also be denied if the minor's treating physician, clinical  
706 psychologist, clinical social worker, or licensed professional counselor has made a part of the minor's record  
707 a written statement that, in the exercise of his professional judgment, the furnishing to or review by the  
708 requesting parent of such health records would be reasonably likely to cause substantial harm to the minor or  
709 another person. If a health care entity denies a parental request for access to, or copies of, a minor's health  
710 record, the health care entity denying the request shall comply with the provisions of subsection F of  
711 § 32.1-127.1:03. The minor or his parent, either or both, shall have the right to have the denial reviewed as  
712 specified in subsection F of § 32.1-127.1:03 to determine whether to make the minor's health record available  
713 to the requesting parent.

714 C. For the purposes of this section, the terms "health record" or the plural thereof and "health care entity"  
715 mean the same as those terms are defined in subsection B of § 32.1-127.1:03 and the terms "child day center"  
716 and "~~family day home~~ *home-based child care*" mean the same as those terms are defined in § ~~63.2-100~~  
717 ~~22.1-289.02~~.

718 **§ 22.1-289.02. Definitions.**

719 As used in this chapter, unless the context requires a different meaning:

720 "Child day center" means a child day program offered to (i) two or more children under the age of 13 in a  
721 facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at  
722 any location.

723 "Child day program" means a regularly operating service arrangement for children where, during the  
724 absence of a parent or guardian, a person or organization has agreed to assume responsibility for the  
725 supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

726 "Early childhood care and education entity" means a child day center, ~~family day home~~ *home-based child*  
727 *care*, or ~~family day home-based child care~~ system serving children under the age of five.

728 "Family day home" means a child day program offered in the residence of the provider or the home of any  
729 of the children in care for one through 12 children under the age of 13, exclusive of the provider's own  
730 children and any children who reside in the home, when at least one child receives care for compensation.  
731 The provider of a licensed or registered family day home shall disclose to the parents or guardians of children  
732 in their care the percentage of time per week that persons other than the provider will care for the children.  
733 Family day homes serving five through 12 children, exclusive of the provider's own children and any children  
734 who reside in the home, shall be licensed. However, no family day home shall care for more than four  
735 children under the age of two, including the provider's own children and any children who reside in the home,  
736 unless the family day home is licensed or voluntarily registered. However, a family day home where the  
737 children in care are all related to the provider by blood or marriage shall not be required to be licensed.

738 "Family day system" means any person who approves family day homes as members of its system; who  
739 refers children to available family day homes in that system; and who, through contractual arrangement, may  
740 provide central administrative functions including, but not limited to, training of operators of member homes;

technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Head Start provider" means a public or private, nonprofit or for-profit organization or agency, including any community-based organization, as such term is defined in 20 U.S.C. § 7801, to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

*"Home-based child care" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of licensed or registered home-based child care shall disclose to the parents or guardians of the children in their care the percentage of time per week that persons other than the provider will care for the children. Home-based child care in which five through 12 children are served, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no more than four children under the age of two shall be served in home-based child care, including the provider's own children and any children who reside in the home, unless the home-based child care is licensed or voluntarily registered. However, home-based child care where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.*

*"Home-based child care system" means any person who approves providers of home-based child care as members of its system; who refers children to available home-based child care in that system; and who, through contractual arrangement, may provide central administrative functions including the training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.*

"Out-of-school time program" means a program that (i) serves only school-age children; (ii) operates primarily before or after regular school hours, during the summer, or at times when school is not normally in session; and (iii) is offered for the purpose of promoting expanded childhood learning and enrichment, child and youth development, or educational, recreational, or character-building activities.

"Publicly funded provider" means any (i) educational program provided by a school division or local government to children between birth and age five or (ii) child day program that receives state or federal funds in support of its operations that serves three or more unrelated children. "Publicly funded provider" does not include any program for which the sole source of public funding is (a) the federal Child and Adult Care Food Program (CACFP) administered by the U.S. Department of Agriculture Food and Nutrition Service or (b) financial assistance for military child care pursuant to 10 U.S.C. § 1798 and that is accredited by a U.S. Department of Defense-approved national accrediting body. Any program described in clause (b) shall subsequently be considered a publicly funded provider if each child for whom such program receives such financial assistance for military child care either disenrolls from or ages out of such program.

~~"Registered family day home home-based child care"~~ means any ~~family day home home-based child care~~ that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Superintendent.

#### **§ 22.1-289.04. Early childhood care and education advisory committee.**

The Board shall establish an early childhood care and education advisory committee to advise the Board on programs, systems, and regulations established pursuant to this chapter. The advisory committee shall include the following members, who shall represent geographically diverse areas: (i) two representatives of publicly funded licensed providers, including at least one for-profit provider; (ii) one representative of an early childhood care and education entity that is not a publicly funded provider; (iii) two representatives of early childhood care and education entities that are license-exempt pursuant to Article 4 (§ 22.1-289.030 et seq.), including one representative of an early childhood care and education entity that is exempt from licensure pursuant to § 22.1-289.031; (iv) three representatives of Head Start providers, one of which shall be operated by a local school division, and two of which shall not be operated by a local school division; (v) two representatives from local school divisions or local school boards operating early childhood programs other than Head Start providers; (vi) two representatives of nonprofit advocacy organizations in the Commonwealth that focus on early childhood care and education; (vii) one representative of a ~~family day home home-based child care~~ that is a publicly funded provider; (viii) two professionals or faculty members from an institution of higher education in the Commonwealth who have child development or early childhood education expertise; (ix) one representative from the Virginia chapter of the American Academy of Pediatrics; (x) one representative from an advocacy or service organization that focuses on serving children with disabilities; (xi) one representative from a business in the Commonwealth; (xii) one parent of a child currently enrolled in a preschool program offered by a publicly funded provider; (xiii) one representative of the Virginia Council on Private Education; (xiv) one representative from a statewide nonprofit association in the Commonwealth whose membership includes both before-school and afterschool nonprofit child care providers and nonprofit preschool providers; (xv) one representative from a nonprofit entity that provides child care resource and referral services related to the operation of early childhood care and education programs; and (xvi) such other members as the Board may deem appropriate. The Commissioner of Social

Services or his designee, the Secretary of Education or his designee, the Secretary of Health and Human Resources or his designee, the Superintendent of Public Instruction or his designee, the Commissioner of the Department of Health or his designee, the Commissioner of the Department of Behavioral Health and Development Services or his designee, and the Director of the Head Start Collaboration Office shall serve ex officio without voting privileges. The Board shall establish bylaws for such advisory committee that include term length and limits for members.

**§ 22.1-289.05:1. (Expires July 1, 2029) Small Home-Based Child Care Provider Incentive Pilot Program.**

A. With such funds as may be provided for such purpose pursuant to the general appropriation act, there is hereby established the Small ~~Family Day Home~~ *Home-Based Child Care* Provider Incentive Pilot Program whereby funds are provided to the Ready Region Chesapeake Bay lead to work in conjunction with public and private partners, including the U.S. Department of Defense, Early Childhood Navigators at the Department, local governing bodies, and nonprofit organizations with experience in supporting childcare providers to become licensed, to:

1. Cover the cost of hiring a Navigator focused on providing training and support to small ~~family day homes~~ *home-based child care providers* in the region, including weekend training sessions to provide information on first aid and cardiopulmonary resuscitation (CPR) certification, medication administration, safe sleep practices, emergency planning, recordkeeping, insurance, and compliance with relevant local ordinances; and

2. Provide incentive payments of \$500 to any small ~~family day home~~ *home-based child care provider* in the region:

a. That is not licensed or voluntarily registered when such home achieves voluntary registration pursuant to § 22.1-289.015;

b. That is voluntarily registered or otherwise unlicensed when such home achieves licensure pursuant to § 22.1-289.011; and

c. When such home first participates in the Virginia Quality Birth to Five (VQB5) system established pursuant to § 22.1-289.05 and meets the standards to qualify for subsidies under the Virginia Child Care Subsidy Program and the Military Child Care in Your Neighborhood-PLUS program.

B. The Ready Region Chesapeake Bay lead shall annually collect and make publicly available data on the number of small ~~family day homes~~ *home-based child care providers* in the region that (i) participated in the weekend trainings provided by the Navigator and (ii) received incentive payments for first achieving voluntary registration or licensure or participating in VQB5.

**§ 22.1-289.06. Confidential records and information; penalty.**

A. The records, information, and statistical registries of the Department and of all child day programs and ~~family day home-based child care~~ systems concerning services to or on behalf of individuals shall be confidential information, provided that the Superintendent, the Board, and their agents or designees shall have access to such records, information, and statistical registries, and that such records, information, and statistical registries may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation.

It shall be unlawful for any officer, agent, or employee of any child day program or ~~family day home-based child care~~ system; for the Superintendent, the State Board, or their agents, designees, or employees; for any person who has held any such position; and for any other person to whom any such record or information is disclosed to disclose, directly or indirectly, any such confidential record or information, except as herein provided or pursuant to § 63.2-105. Every violation of this section shall constitute a Class 1 misdemeanor.

B. If a request for a record or information concerning applicants for and recipients of services provided in this chapter is made to the Department by a person who does not have a legitimate interest, the Superintendent shall not provide the record or information unless permitted by state or federal law or regulation.

**§ 22.1-289.07. Information related to shaken baby syndrome.**

The Department shall make information about shaken baby syndrome, its effects, and resources for help and support for caretakers in a printable format, and information about how to acquire information about shaken baby syndrome and its effects in an audiovisual format, available to the public on its website. Such information shall be provided to every child day program and ~~family day home-based child care~~ system required to be licensed by the Department at the time of initial licensure and upon request.

**§ 22.1-289.08. Board to investigate child day programs at direction of Governor.**

Whenever the Governor considers it proper or necessary to investigate the management of any child day program or ~~family day home-based child care~~ system licensed by or required to be inspected by the Board under the provisions of this chapter, he may direct the Board, or any committee or agent thereof, to make the investigation. The Board, committee, or agent designated by the Governor shall have power to administer oaths and to summon officers, employees, or other persons to attend as witnesses and to enforce their attendance and to compel them to produce documents and give evidence.

**§ 22.1-289.010. Application fees; regulations and schedules; use of fees; certain facilities, centers**

**and agencies exempt.**

The Board is authorized to adopt regulations and schedules for fees to be charged for processing applications for licenses to operate child day programs and ~~family day home-based child care~~ systems. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based on the capacity of such facilities, centers, and agencies. Fees shall be used for the development and delivery of training for operators and staff of child day programs and ~~family day home-based child care~~ systems. Fees shall be expended for this purpose within two fiscal years following the fiscal year in which they are collected. These fees shall not be applicable to facilities, centers, or agencies operated by federal entities.

The Board shall develop training programs for operators and staffs of licensed child day programs. Such programs shall include formal and informal training offered by institutions of higher education, state and national associations representing child care professionals, local and regional early childhood educational organizations, state agencies and other trainers designated by the Board, and licensed child care providers. Training provided to operators and staffs of licensed child day programs shall include training and information regarding shaken baby syndrome, its effects, and resources for help and support for caretakers. To the maximum extent possible, the Board shall ensure that all provider interests are represented and that no single approach to training shall be given preference.

**§ 22.1-289.011. Licenses required; issuance, expiration, and renewal; maximum number of participants or children; posting of licenses.**

A. As used in this section, "person" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains a child day program or ~~family day home-based child care~~ system.

B. Every person who constitutes, or who operates or maintains, a child day program or ~~family day home-based child care~~ system shall obtain the appropriate license from the Superintendent, which may be renewed. The Superintendent, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Each application for a license shall be made to the Superintendent, in such form as he may prescribe. It shall contain the name and address of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers and agents. The application shall also contain a description of the activities proposed to be engaged in and the facilities and services to be employed, together with other pertinent information as the Superintendent may require.

C. The licenses shall be issued on forms prescribed by the Superintendent. Any two or more licenses may be issued for concurrent operation of more than one child day program or ~~family day home-based child care~~ system, but each license shall be issued upon a separate form. Each license for a ~~family day home-based child care~~ or ~~family day~~ a home-based child care system and renewals thereof may be issued for periods of up to three successive years, unless sooner revoked or surrendered. Licenses issued to child day centers under this chapter shall have a duration of two years from date of issuance.

D. The Superintendent may extend or shorten the duration of licensure periods for a child day program or ~~family day home-based child care~~ system whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

E. Each license shall indicate the maximum number of persons who may be cared for in the child day program or ~~family day home-based child care~~ system for which it is issued.

F. The license and any other documents required by the Superintendent shall be posted in a conspicuous place on the licensed premises.

G. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

**§ 22.1-289.012. Local government to report business licenses issued to child day centers and home-based child care.**

The commissioner of the revenue or other local business license official shall report to the Department on a semiannual basis the name, address, and contact information of any child day center or ~~family day home-based child care~~ to which a business license was issued.

**§ 22.1-289.014. Variances.**

The Superintendent may grant a variance to a regulation when the Superintendent determines that (i) a licensee or applicant for licensure as a child day program or ~~family day home-based child care~~ system has demonstrated that the implementation of a regulation would impose a substantial financial or programmatic hardship and (ii) the variance would not adversely affect the safety and well-being of children in care. The Superintendent shall review each allowable variance at least annually. At a minimum, this review shall address the impact of the allowable variance on persons in care, adherence by the licensee to any conditions attached, and the continuing need for the allowable variance.

**§ 22.1-289.015. Voluntary registration of home-based child care; inspections; investigation upon receipt of complaint; revocation or suspension of registration.**

A. Any person who maintains a ~~family day home~~ provides home-based child care serving fewer than five

927 children, exclusive of the provider's own children and any children who reside in the home, may apply for  
 928 voluntary registration. An applicant for voluntary registration shall file with the Superintendent, prior to  
 929 beginning any such operation and thereafter biennially, an application which shall include, but not be limited  
 930 to, the following:

- 931 1. The name, address, phone number, and social security number of the person maintaining the ~~family day~~  
 932 ~~home~~ *home-based child care*;
- 933 2. The number and ages of the children to receive care;
- 934 3. A sworn statement or affirmation in which the applicant attests to the accuracy of the information  
 935 submitted to the Superintendent; and
- 936 4. Documentation that the background check requirements for registered ~~family day homes~~ *home-based*  
 937 *child care* in Article 5 (§ 22.1-289.034 et seq.) have been met.

938 B. The Board shall adopt regulations for voluntarily registered ~~family day homes~~ *home-based child care*  
 939 that include; ~~but are not limited to:~~

- 940 1. The criteria and process for the approval of the certificate of registration;
- 941 2. Requirements for a self-administered health and safety guidelines evaluation checklist;
- 942 3. A schedule for fees to be paid by the providers to the contract organization or to the Department if it  
 943 implements the provisions of this section for processing applications for the voluntary registration of ~~family~~  
 944 ~~day homes~~ *home-based child care*. The charges collected shall be maintained for the purpose of recovering  
 945 administrative costs incurred in processing applications and certifying such homes as eligible or registered;
- 946 4. The criteria and process for the renewal of the certificate of registration; and
- 947 5. The requirement that upon receipt of a complaint concerning a registered ~~family day home~~ *home-based*  
 948 *child care*, the Superintendent shall cause an investigation to be made, including on-site visits as he deems  
 949 necessary, of the activities, services, and facilities. The person who maintains such home shall afford the  
 950 Superintendent reasonable opportunity to inspect the operator's facilities and records and to interview any  
 951 employees and any child or other person within his custody or control. Whenever a registered ~~family day~~  
 952 ~~home~~ *home-based child care* is determined by the Superintendent to be in noncompliance with the  
 953 regulations for voluntarily registered ~~family day homes~~ *home-based child care*, the Superintendent shall give  
 954 reasonable notice to the operator of the nature of the noncompliance and may thereafter revoke or suspend the  
 955 registration.

956 C. Upon receiving the application on forms prescribed by the Superintendent, and after having determined  
 957 that the home has satisfied the requirements of the regulations for voluntarily registered ~~family day homes~~  
 958 *home-based child care*, the Superintendent shall issue a certificate of registration ~~to the family day home for~~  
 959 *such home-based child care*.

960 D. The Superintendent shall contract in accordance with the requirements of the Virginia Public  
 961 Procurement Act (§ 2.2-4300 et seq.) with qualified local agencies and community organizations to review  
 962 applications and certify ~~family day homes~~ *home-based child care* as eligible for registration, pursuant to the  
 963 regulations for voluntarily registered ~~family day homes~~ *home-based child care*. If no qualified local agencies  
 964 or community organizations are available, the Superintendent shall implement the provisions of this section.  
 965 For the purposes of this subsection, "qualified" means demonstrated ability to provide sound financial  
 966 management and administrative services including application processing, maintenance of records and  
 967 reports, technical assistance, consultation, training, monitoring, and random inspections.

968 E. The scope of services in contracts shall include:

- 969 1. The identification of ~~family day homes~~ *home-based child care* which may meet the standards for  
 970 voluntary registration provided in subsection A; and
- 971 2. A requirement that the contract organization shall provide administrative services, including, but not  
 972 limited to, processing applications for the voluntary registration of ~~family day homes~~ *home-based child care*;  
 973 certifying such homes as eligible for registration; providing technical assistance, training, and consultation  
 974 with ~~family day homes~~ *home-based child care providers*; ensuring providers' compliance with the regulations  
 975 for voluntarily registered ~~family day homes~~ *home-based child care*, including monitoring and random  
 976 inspections; and maintaining permanent records regarding all ~~family day homes~~ *home-based child care*  
 977 *that it may certify as eligible for registration*.

978 F. The contract organization, upon determining that a ~~family day home~~ *home-based child care* has  
 979 satisfied the requirements of the regulations for voluntarily registered ~~family day homes~~ *home-based child*  
 980 *care*, shall certify the home as eligible for registration on forms prescribed by the Superintendent. The  
 981 Superintendent, upon determining that certification has been properly issued, may register the ~~family day~~  
 982 ~~home~~ *home-based child care*.

983 G. The provisions of this section shall not apply to any ~~family day home~~ *home-based child care* located in  
 984 a county, city, or town in which the governing body provides by ordinance for the regulation and licensing of  
 985 persons who provide child-care services for compensation and for the regulation and licensing of child-care  
 986 facilities pursuant to the provisions of § 15.2-914.

987 **§ 22.1-289.016. Unlicensed and unregistered home-based child care; notice to parents.**

988 Every unlicensed, unregistered ~~family day home~~ *home-based child care provider* shall provide written



notice to the parents of every child receiving care, at the time the ~~family day home~~ *home-based child care provider* begins providing care for the child, stating that the ~~family day home~~ *home-based child care* is not regulated by the Department and referring parents to a website maintained by the Department for additional information regarding licensed, registered, and unlicensed, unregistered ~~family day homes~~ *home-based child care*. The provisions of this section shall not apply to an unlicensed, unregistered ~~family day home~~ *home-based child care* in which all of the children receiving care are related to the provider by blood or marriage.

**§ 22.1-289.017. Compliance with Uniform Statewide Building Code.**

Buildings licensed as child day programs or ~~family day home-based child care~~ systems shall be classified by and meet the specifications for the proper Use Group as required by the Virginia Uniform Statewide Building Code.

**§ 22.1-289.018. Inspections and interviews.**

A. Applicants for licensure and licensees shall at all times afford the Superintendent reasonable opportunity to inspect all of their facilities, books and records, and to interview their agents and employees and any person living or participating in such facilities, or under their custody, control, direction, or supervision. Interviews conducted pursuant to this section with persons living or participating in a facility operated by or under the custody, control, direction, or supervision of an applicant for licensure or a licensee shall be (i) authorized by the person to be interviewed or his legally authorized representative and (ii) limited to discussion of issues related to the applicant's or licensee's compliance with applicable laws and regulations, including ascertaining if assessments and reassessments of residents' cognitive and physical needs are performed as required under regulations of the Board.

B. All licensed child day programs and ~~family day home-based child care~~ systems shall be inspected not less than twice annually, and one of those inspections shall be unannounced.

C. The activities, services, and facilities of each applicant for renewal of his license as a child day program or ~~family day home-based child care~~ system shall be subject to an inspection or examination by the Superintendent to determine if he is in compliance with current regulations of the Board.

D. The Superintendent may authorize such other announced or unannounced inspections as the Superintendent considers appropriate.

**§ 22.1-289.019. Inspections of child day programs and home-based child care systems; prioritization.**

The Superintendent shall prioritize inspections of child day programs and ~~family day home-based child care~~ systems in the following order: (i) inspections conducted in response to a complaint involving a licensed, registered, license-exempt, or unlicensed child day program or ~~family day home-based child care~~ system; (ii) inspections of licensed or registered child day programs and ~~family day home-based child care~~ systems that are not conducted in response to a complaint; (iii) inspections of license-exempt or unlicensed child day programs and ~~family day home-based child care~~ systems that have entered into a contract with the Department or its agents or designees or a local department of social services to provide child care services funded by the Child Care and Development Block Grant, other than inspections conducted in response to a complaint; and (iv) inspections of license-exempt and unlicensed child day programs and ~~family day home-based child care~~ systems that are not conducted in response to a complaint.

**§ 22.1-289.021. Records and reports.**

Every licensed or registered child day program and ~~family day home-based child care~~ system shall keep such records and make such reports to the Superintendent as he may require. The forms to be used in the making of such reports shall be prescribed and furnished by the Superintendent.

**§ 22.1-289.022. Enforcement and sanctions; child day programs and home-based child care systems; revocation and denial.**

A. The Superintendent may revoke or deny the renewal of the license of any child day program or ~~family day home-based child care~~ system that violates any provision of this chapter or fails to comply with the limitations and standards set forth in its license.

B. Pursuant to the procedures set forth in subsection C, and in addition to the authority for other disciplinary actions provided in this title, the Superintendent may issue a notice of summary suspension of the license of any child day program or ~~family day home-based child care~~ system, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the child day program or ~~family day home-based child care~~ system that pose an immediate and substantial threat to the health, safety, and welfare of the children receiving care, and the Superintendent believes the operation of the child day program or ~~family day home-based child care~~ system should be suspended during the pendency of such proceeding.

C. A notice of summary suspension issued by the Superintendent to a child day program or ~~family day home-based child care~~ system shall set forth (i) the summary suspension procedures; (ii) hearing and appeal rights as provided in this subsection; (iii) facts and evidence that formed the basis for the summary suspension; and (iv) the time, date, and location of a hearing to determine whether the summary suspension is appropriate. Such notice shall be served on the child day program or ~~family day home-based child care~~ system or its designee as soon as practicable thereafter by personal service or certified mail, return receipt

1051 requested, to the address of record of the child day program or ~~family day home-based child care~~ system.

1052 The summary suspension hearing shall be presided over by a hearing officer selected by the  
1053 Superintendent from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be  
1054 held as soon as practicable, but in no event later than 15 business days following service of the notice of  
1055 summary suspension; however, the hearing officer may grant a written request for a continuance, not to  
1056 exceed an additional 10 business days, for good cause shown. Within 10 business days after such hearing, the  
1057 hearing officer shall provide to the Superintendent written findings and conclusions, together with a  
1058 recommendation as to whether the license should be summarily suspended.

1059 Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation,  
1060 the Superintendent may issue a final order of summary suspension or an order that such summary suspension  
1061 is not warranted by the facts and circumstances presented. The Superintendent shall adopt the hearing  
1062 officer's recommended decision unless to do so would be an error of law or Department policy. In the event  
1063 that the Superintendent rejects the hearing officer's findings, conclusions, or recommendation, the  
1064 Superintendent shall state with particularity the basis for rejection. In issuing a final order of summary  
1065 suspension, the Superintendent may choose to suspend the license of the child day program or ~~family day~~  
1066 ~~home-based child care~~ system or to suspend only certain authority of the child day program or ~~family day~~  
1067 ~~home-based child care~~ system to operate, including the authority to provide certain services or perform  
1068 certain functions that the Superintendent determines should be restricted or modified in order to protect the  
1069 health, safety, or welfare of the children receiving care. A final order of summary suspension shall include  
1070 notice that the licensee may appeal the Superintendent's decision to the appropriate circuit court no later than  
1071 10 days following service of the order. The sole issue before the court shall be whether the Superintendent  
1072 had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent  
1073 revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be  
1074 affected by the outcome of any hearing on the appropriateness of the summary suspension.

1075 A copy of any final order of summary suspension shall be prominently displayed by the child day  
1076 program or ~~family day home-based child care~~ system at each public entrance of the facility, or in lieu thereof,  
1077 the child day program or ~~family day home-based child care~~ system may display a written statement  
1078 summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface,  
1079 and identifying the location within the facility where the final order of summary suspension may be reviewed.

1080 The willful and material failure to comply with the final order of summary suspension constitutes a  
1081 violation of subdivision 3 of § 22.1-289.027.

1082 The provisions of this subsection shall not apply to any child day program or ~~family day home-based child~~  
1083 ~~care~~ system operated by an agency of the Commonwealth, which shall instead be governed by the provisions  
1084 of subsection D.

1085 D. Whenever the Superintendent issues a summary order of suspension of the license to operate a child  
1086 day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth:

1087 1. Before such summary order of suspension shall take effect, the Superintendent shall issue to the child  
1088 day program or ~~family day home-based child care~~ system a notice of summary order of suspension setting  
1089 forth (i) the procedures for a hearing and right of review as provided in this section and (ii) facts and evidence  
1090 that formed the basis on which the summary order of suspension is sought. Such notice shall be served on the  
1091 licensee or its designee as soon as practicable thereafter by personal service or certified mail, return receipt  
1092 requested, to the address of record of the licensee. The notice shall state the time, date, and location of a  
1093 hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three  
1094 business days after the issuance of the notice of the summary order of suspension and shall be convened by  
1095 the Superintendent or his designee. After such hearing, the Superintendent may issue a final order of  
1096 summary suspension or may find that such summary suspension is not warranted by the facts and  
1097 circumstances presented.

1098 2. A final order of summary suspension shall include notice that the licensee may request, in writing and  
1099 within three business days after receiving the Superintendent's decision, that the Superintendent refer the  
1100 matter to the Secretary of Education for resolution within three business days of the referral. Any  
1101 determination by the Secretary shall be final and not subject to judicial review. If the final order of summary  
1102 suspension is upheld, it shall take effect immediately, and a copy of the final order of summary suspension  
1103 shall be prominently displayed by the licensee at each public entrance of the facility. Any concurrent  
1104 revocation, denial, or other proceedings shall not be affected by the outcome of any determination by the  
1105 Secretary.

1106 **§ 22.1-289.023. Enforcement and sanctions; special orders; civil penalties.**

1107 A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the  
1108 Superintendent may issue a special order (i) for violation of any of the provisions of this chapter,  
1109 § 54.1-3408, or any regulation adopted under any provision of this chapter which violation adversely affects,  
1110 or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii)  
1111 for permitting, aiding, or abetting the commission of any illegal act in a child day program or ~~family day~~  
1112 ~~home-based child care~~ system. Notice of the Superintendent's intent to take any of the actions enumerated in

subdivisions B 1 through 6 shall be provided by the Department, and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. Actions set forth in subsection B may be appealed by (a) a child day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth in accordance with § 22.1-289.025 or (b) any other child day program or ~~family day home-based child care~~ system in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The Superintendent shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.

B. The Superintendent may take the following actions regarding child day programs and ~~family day home-based child care~~ systems through the issuance of a special order and may require a copy of the special order provided by the Department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of its license and that the health and safety of children are at risk;

2. Reduce licensed capacity or prohibit new admissions when the Superintendent concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;

3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the Superintendent concludes that the lack of such training has led directly to violations of regulations;

4. Assess civil penalties of not more than \$500 per inspection upon finding that the child day program or ~~family day home-based child care~~ system is substantially out of compliance with the terms of its license and the health and safety of children are at risk; however, no civil penalty shall be imposed pursuant to this subdivision on any child day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth;

5. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and

6. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

C. The Board shall adopt regulations to implement the provisions of this section.

**§ 22.1-289.024. Appeal from refusal, denial of renewal, or revocation of license.**

A. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for a child day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth, the provisions of § 22.1-289.025 shall apply. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for any child day program or ~~family day home-based child care~~ system other than a child day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Superintendent's intent to refuse to issue or renew, or revoke a license shall be received in writing from the child day program or ~~family day home-based child care~~ system operator within 15 days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the Supreme Court or the Court of Appeals.

B. In every appeal to a court of record, the Superintendent shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license for a child day program or ~~family day home-based child care~~ system has been refused by the Superintendent, the applicant shall not thereafter for a period of six months apply again for such license unless the Superintendent in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

**§ 22.1-289.025. Right to appeal notice of intent; child day programs and home-based child care systems operated by agencies of the Commonwealth.**

Any child day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth shall have the right to appeal any notice of intent as follows:

1. Within 30 days after receiving a notice of intent to impose a sanction, the licensee shall request in writing that the Superintendent review the intended agency action and may submit, together with such request, relevant information, documentation, or other pertinent data supporting its appeal. The Superintendent shall issue a decision within 60 days after receiving the request and shall have the authority to uphold the sanction or take whatever action he deems appropriate to resolve the controversy.

2. If the child day program or ~~family day home-based child care~~ system disputes the Superintendent's decision, the licensee shall request, within 30 days of receiving the Superintendent's decision, that the Superintendent refer the matter to the Secretary of Education. The Secretary shall issue a decision within 60

1175 days of receiving the request for review. The Secretary's decision shall be final and shall not be subject to  
1176 review.

1177 **§ 22.1-289.026. Injunction against operation without license.**

1178 Any circuit court having jurisdiction in the county or city where the principal office of any child day  
1179 program or ~~family day~~ *home-based child care* system is located shall, at the suit of the Superintendent, have  
1180 jurisdiction to enjoin its operation without a license required by this chapter.

1181 **§ 22.1-289.027. Offenses; penalty.**

1182 Any person, and each officer and each member of the governing board of any association or corporation  
1183 that operates a child day program or ~~family day~~ *home-based child care* system, shall be guilty of a Class 1  
1184 misdemeanor if he:

1185 1. Interferes with any representative of the Superintendent in the discharge of his duties under this  
1186 chapter;

1187 2. Makes to the Superintendent or any representative of the Superintendent any report or statement, with  
1188 respect to the operation of any child day program or ~~family day~~ *home-based child care system*, that is  
1189 known by such person to be false or untrue;

1190 3. Operates or engages in the conduct of a child day program or ~~family day~~ *home-based child care* system  
1191 without first obtaining a license as required by this chapter or after such license has been revoked or  
1192 suspended or has expired and not been renewed. No violation shall occur if the agency has applied to the  
1193 Department for renewal prior to the expiration date of the license. Every day's violation of this subdivision  
1194 shall constitute a separate offense; or

1195 4. Operates or engages in the conduct of a child day program or ~~family day~~ *home-based child care* system  
1196 serving more persons than the maximum stipulated in the license.

1197 **§ 22.1-289.028. Misleading advertising prohibited.**

1198 No child day program or ~~family day~~ *home-based child care* system shall make, publish, disseminate,  
1199 circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated,  
1200 circulated or placed before the public in this Commonwealth, in a newspaper or other publication; in the form  
1201 of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet, or letter; or via  
1202 electronic mail, website, automatic mailing list services (listservs), newsgroups, facsimile, chat rooms; or in  
1203 any other way an advertisement of any sort regarding services or anything so offered to the public, which  
1204 advertisement contains any promise, assertion, representation or statement of fact that is untrue, deceptive, or  
1205 misleading.

1206 **§ 22.1-289.030. Exemptions from licensure.**

1207 A. The following programs are not child day programs and shall not be required to be licensed:

1208 1. A program of instructional experience in a single focus, such as, but not limited to, computer science,  
1209 archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is  
1210 allowed to attend for more than 25 days in any three-month period commencing with enrollment. This  
1211 exemption does not apply if children merely change their enrollment to a different focus area at a site offering  
1212 a variety of activities and such children's attendance exceeds 25 days in a three-month period.

1213 2. Programs of instructional or recreational activities wherein no child under age five attends for more  
1214 than six hours weekly with no class or activity period to exceed one and one-half hours, and no child five  
1215 years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly  
1216 when school is not in session. Competition, performances, and exhibitions related to the instructional or  
1217 recreational activity shall be excluded when determining the hours of program operation.

1218 3. Instructional programs offered by private schools that serve school-age children and that satisfy  
1219 compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as  
1220 amended, and programs of school-sponsored extracurricular activities that are focused on single interests  
1221 such as, but not limited to, music, sports, drama, civic service, or foreign language.

1222 4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory  
1223 attendance laws, or provide services under the Individuals with Disabilities Education Act (20 U.S.C. § 1400  
1224 et seq.), as amended, and programs of school-sponsored extracurricular activities that are focused on single  
1225 interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

1226 5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities  
1227 Education Act (20 U.S.C. § 1431 et seq.), as amended, wherein no child attends for more than a total of six  
1228 hours per week.

1229 6. Practice or competition in organized competitive sports leagues.

1230 7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat  
1231 Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified  
1232 religious services or related activities to allow parents or guardians or their designees who are on site to  
1233 attend such religious services and activities.

1234 8. A program of instructional or athletic experience operated during the summer months by, and as an  
1235 extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and  
1236 administered by the Virginia Council for Private Education.

9. Programs providing instructional experience in horse riding, provided that (i) such a program is taught (a) by an adult with a recognized certification in horse riding instruction and (b) to fewer than 12 children at any time, (ii) at least one adult actively supervises no more than three children at any time during such a program, and (iii) the majority of programming for any such program relates to horse riding and equine activities.

B. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by an accredited private school as set forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the provisions of § 22.1-289.032.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day on full instructional days or for more than four hours per day on shortened instructional days or noninstructional days, staffed by local school division employees, and attended by children who are at least three years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.

9. A program offered by a private school accredited by and in good standing with the Virginia Council for Private Education, operated for no more than four hours per day, staffed by the accredited private school's employees, and attended by school-age children who are enrolled in the accredited private school. Such programs shall be subject to safety and supervisory standards established by the Virginia Council for Private Education.

10. A child day program that (i) serves only dependent children of military personnel and (ii) (a) is located on a military base or federal property or (b) is certified as a family child care provider by a branch of the Armed Forces of the United States. Any branch of the Armed Forces of the United States or its agent, including an installation commander of a military base on which a child day program is located, may assume responsibility for approving or determining which children may be served by the program that is so exempted from licensure.

11. An out-of-school time program pursuant to § 22.1-289.02 that (i) is affiliated with a national organization with established health and safety requirements; (ii) is in compliance with any health and safety requirements established by the national organization described in clause (i); (iii) has adopted standards and requirements relating to staff training and qualifications that are consistent with the Board's regulations relating to staff training requirements and qualifications; (iv) requires all applicants for employment, employees, applicants to serve as volunteers, and volunteers to undergo a background check in accordance with § 22.1-289.039 and, if applicable, in accordance with the provisions of § 22.1-289.040; and (v) has policies and procedures relating to emergency preparedness and response, child abuse prevention and response, and internal incident reporting and investigation. If there is a conflict between any of the health and safety requirements established by the national organization or any other standards, requirements, policies, or procedures adopted by the out-of-school time program and the Board's regulations, the Board shall conduct an internal review process and consult with the out-of-school time program provider to ensure substantial compliance with the Board's regulations.

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, or 11, shall:

1. File with the Superintendent annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in

1299 writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

1300 2. Report to the Superintendent all incidents involving serious physical injury to or death of children  
1301 attending the child day program. Reports of serious physical injuries, which shall include any physical  
1302 injuries that require an emergency referral to an offsite health care professional or treatment in a hospital,  
1303 shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the  
1304 death occurred; and

1305 3. Post in a visible location on the premises notice that the child day program is operating as a program  
1306 exempt from licensure with basic health and safety requirements but has no direct oversight by the  
1307 Department.

1308 D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day  
1309 programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, 7, or 11 shall:

1310 1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child  
1311 day program whenever children are present or at any other location in which children attending the child day  
1312 program are present;

1313 2. Maintain daily attendance records that document the arrival and departure of all children;

1314 3. Have an emergency preparedness plan in place;

1315 4. Comply with all applicable laws and regulations governing transportation of children; and

1316 5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

1317 E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to  
1318 subsection B to determine compliance with the provisions of this section only upon receipt of a complaint,  
1319 except as otherwise provided by law.

1320 F. ~~Family day homes~~ *Home-based child care providers* that are members of a licensed ~~family day home-~~  
1321 *based child care* system shall not be required to obtain a license from the Superintendent.

1322 **§ 22.1-289.035. Licensed child day centers, home-based child care, and home-based child care**  
1323 **systems; employment for compensation or use as volunteers of persons convicted of or found to have**  
1324 **committed certain offenses prohibited; national background check required; penalty.**

1325 A. No child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based child care~~  
1326 system licensed in accordance with the provisions of this chapter, child day center exempt from licensure  
1327 pursuant to § 22.1-289.031, registered ~~family day home~~ *home-based child care*, ~~family day home~~ *home-based*  
1328 *child care* approved by a ~~family day home-based child care~~ system, or child day center, ~~family day home~~  
1329 *home-based child care*, or child day program that enters into a contract with the Department or its agents or  
1330 designees to provide child care services funded by the Child Care and Development Block Grant shall hire  
1331 for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with,  
1332 in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in  
1333 § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the  
1334 Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers  
1335 shall undergo a background check in accordance with subsection B prior to employment or beginning to  
1336 serve as a volunteer and every five years thereafter. However, pending the results of all background check  
1337 components set forth in subsection B, an applicant for employment or an applicant to serve as a volunteer  
1338 may work in the child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based child~~  
1339 *care* system, provided that (a) the applicant has received qualifying results on a fingerprint-based background  
1340 check through the Central Criminal Records Exchange or the Federal Bureau of Investigation and (b) the  
1341 applicant is supervised at all times by a person who received a qualifying result on a background check  
1342 conducted in accordance with subsection B within the past five years.

1343 B. Any individual required to undergo a background check in accordance with subsection A shall:

1344 1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the  
1345 subject of pending charges for any offense within or outside the Commonwealth and whether he has been the  
1346 subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

1347 2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of  
1348 § 19.2-392.02;

1349 3. Authorize the child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based~~  
1350 *child care* system described in subsection A to obtain a copy of the results of a search of the central registry  
1351 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

1352 4. Authorize the child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based~~  
1353 *child care* system described in subsection A to obtain a copy of the results of a criminal history record  
1354 information check, a sex offender registry check, and a search of the child abuse and neglect registry or  
1355 equivalent registry from any state in which the individual has resided in the preceding five years.

1356 The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall  
1357 be forwarded by the Department or its designee or, in the case of a child day program operated by a local  
1358 government, may be forwarded by the local law-enforcement agency through the Central Criminal Records  
1359 Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record  
1360 information regarding such applicant. Upon receipt of an applicant's record or notification that no record

exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee, and the Department or its designee shall report to the child day center or ~~family day home home-based child care~~ whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department or its designee shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, ~~family day home home-based child care~~, or ~~family day home-based child care~~ system.

C. The child day center, ~~family day home home-based child care~~, or ~~family day home-based child care~~ system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited (i) other than to the Superintendent's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination or (ii) except as provided in subsection J.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, ~~family day home home-based child care~~, or ~~family day home-based child care~~ system described in subsection A of such conviction or finding.

J. Notwithstanding the provisions of subsection A, a background check shall not be required for any individual who has completed a background check under the provisions of this section within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime as defined in § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by or a volunteer at a child day center, ~~family day home home-based child care~~, ~~family day home-based child care~~ system, or child day program described in subsection A. Except as otherwise provided in subsection A, prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to subsection A without the completion of a background check under the provisions of subsection B, the child day center, ~~family day home home-based child care~~, ~~family day home-based child care~~ system, or child day program shall, upon the individual's written consent, obtain written certification from the Department or its designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as an employee or volunteer. If the individual meets all requirements set forth in this subsection and is eligible to serve as an employee or volunteer at the child day center, ~~family day home home-based child care~~, ~~family day home-based child care~~ system, or child day program, the written certification shall also state the next date by which another background check for such person shall be completed in accordance with subsection B. Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint of child abuse or neglect or any other information about the individual.

K. Notwithstanding the provisions of subsection E, the Virginia Council for Private Education (the Council) or its authorized designee may review background check information for current employees of child day centers accredited by the Council for the purposes of seeking or maintaining accreditation by the Council as permitted pursuant to § 22.1-19.

L. Notwithstanding the provisions of subsection E, the Department, upon receiving a written request for such a written certification from an individual, shall provide written certification to an entity designated by the Department that provides staffing for child day programs that such individual satisfies all requirements set forth in this section and is eligible to serve as an employee, temporary employee, or volunteer in a child day program. Each such written certification shall also state the date by which the individual is required to complete a new background check in accordance with the periodic requirement for such background checks



1423 that is established in subsection A. No such written certification shall reveal the nature of any disqualifying  
1424 barrier crime committed by or founded complaint of child abuse or neglect against the individual. Any such  
1425 written certification may be shared among child day programs for the purpose of facilitating the creation and  
1426 maintenance of a child day program substitute staff pool system.

1427 **§ 22.1-289.036. Background check upon application for licensure, registration, or approval as child**  
1428 **day center, home-based child care, or home-based child care system; penalty.**

1429 A. Every (i) applicant for licensure as a child day center, ~~family day home home-based child care~~, or  
1430 ~~family day a home-based child care~~ system, registration as a ~~family day home home-based child care~~, or  
1431 approval as a ~~family day home home-based child care~~ by a ~~family day home-based child care~~ system; (ii)  
1432 agent of an applicant for licensure as a child day center, ~~family day home home-based child care~~, or ~~family~~  
1433 ~~day a home-based child care~~ system, registration as a ~~family day home home-based child care~~, or approval as  
1434 a ~~family day home home-based child care~~ by a ~~family day home-based child care~~ system at the time of  
1435 application who is or will be involved in the day-to-day operations of the child day center, ~~family day home~~  
1436 ~~home-based child care~~, or ~~family day home-based child care~~ system or who is or will be alone with, in  
1437 control of, or supervising one or more of the children; and (iii) adult living in such child day center or ~~family~~  
1438 ~~day home the home in which such home-based child care is provided~~ shall undergo a background check in  
1439 accordance with subsection B prior to issuance of a license as a child day center, ~~family day home home-~~  
1440 ~~based child care~~, or ~~family day a home-based child care~~ system, registration as a ~~family day home home-~~  
1441 ~~based child care~~, or approval as a ~~family day home home-based child care~~ by a ~~family day home-based child~~  
1442 ~~care system~~ and every five years thereafter.

1443 B. Every person required to undergo a background check pursuant to subsection A shall:

1444 1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the  
1445 subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or  
1446 not he has been the subject of a founded complaint of child abuse or neglect within or outside the  
1447 Commonwealth;

1448 2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of  
1449 § 19.2-392.02;

1450 3. Authorize the child day center, ~~family day home home-based child care~~, or ~~family day home-based~~  
1451 ~~child care~~ system specified in subsection A to obtain a copy of the results of a search of the central registry  
1452 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

1453 4. Authorize the child day center, ~~family day home home-based child care~~, or ~~family day home-based~~  
1454 ~~child care~~ system described in subsection A to obtain a copy of the results of a criminal history record  
1455 information check, a sex offender registry check, and a search of the child abuse and neglect registry or  
1456 equivalent registry from any state in which the individual has resided in the preceding five years.

1457 Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded  
1458 by the Department or its designee or, in the case of a child day program operated by a local government, may  
1459 be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the  
1460 Federal Bureau of Investigation for the purpose of obtaining national criminal history record information  
1461 regarding the individual. Upon receipt of an individual's record or notification that no record exists, the  
1462 Central Criminal Records Exchange shall forward the information to the Department or its designee. The  
1463 Department or its designee shall report to the child day center, ~~family day home home-based child care~~, or  
1464 ~~family day home-based child care~~ system described in subsection A as to whether the individual is eligible to  
1465 have responsibility for the safety and well-being of children. In cases in which the record forwarded to the  
1466 Department or its designee is lacking disposition data, the Department or its designee shall conduct research  
1467 in whatever state and local recordkeeping systems are available in order to obtain complete data.

1468 C. If any person specified in subsection A required to have a background check (i) has been convicted of  
1469 any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or  
1470 neglect within or outside the Commonwealth, and such person has not been granted a waiver by the  
1471 Superintendent pursuant to § 22.1-289.038, no license as a child day center, ~~family day home home-based~~  
1472 ~~child care~~, or ~~family day home-based child care~~ system or registration as a ~~family day home home-based~~  
1473 ~~child care~~ shall be granted by the Superintendent and no approval as a ~~family day home home-based child~~  
1474 ~~care~~ shall be granted by the ~~family day home-based child care~~ system.

1475 D. Information from a search of the central registry maintained pursuant to § 63.2-1515 and any child  
1476 abuse and neglect registry or equivalent registry maintained by any other state in which the applicant, agent,  
1477 or adult has resided in the preceding five years, authorized in accordance with subdivision B 3, shall be  
1478 obtained prior to issuance of a license as a child day center, ~~family day home home-based child care~~, or  
1479 ~~family day a home-based child care~~ system, registration as a ~~family day home home-based child care~~, or  
1480 approval as a ~~family day home home-based child care~~ by a ~~family day home-based child care~~ system.

1481 E. No person specified in subsection A shall be involved in the day-to-day operations of the child day  
1482 center, ~~family day home home-based child care~~, or ~~family day home-based child care~~ system, or shall be  
1483 alone with, in control of, or supervising one or more children, without first having completed any required  
1484 background check pursuant to subsection B.



F. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

G. If an individual is denied licensure, registration, or approval because of information from the central registry or any child abuse and neglect registry or equivalent registry maintained by any other state, or convictions appearing on his criminal history record, the Superintendent shall provide a copy of the information obtained from the central registry, any child abuse and neglect registry or equivalent registry maintained by any other state, or the Central Criminal Records Exchange to the individual.

H. Further dissemination of the background check information is prohibited other than to the Superintendent's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

J. For the purposes of this section, "agent" means a person who is authorized to act on behalf of the applicant or licensee.

**§ 22.1-289.037. Revocation or denial of renewal based on background checks; failure to obtain background check.**

A. The Superintendent may revoke or deny renewal of a license or registration of a child day program or ~~family day home-based child care~~ system, and a ~~family day home-based child care~~ system may revoke the approval of a ~~family day home-based child care~~, if the child day program, ~~family day home-based child care~~ system, or approved ~~family day home-based child care~~ has knowledge that a person specified in § 22.1-289.035 or 22.1-289.036 required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Superintendent pursuant to § 22.1-289.038 or is not subject to the exceptions in subsection G of § 22.1-289.035, and the agency or home refuses to separate such person from employment or service or allows the household member to continue to reside in the home.

B. Failure to obtain background checks pursuant to §§ 22.1-289.035 and 22.1-289.036 shall be grounds for denial, revocation, or termination of a license, registration, or approval or any contract with the Department or its agents or designees or a local department of social services to provide child care services to clients of the Department or its agents or designees or the local department of social services. No violation shall occur if the ~~family day home-based child care~~ system, ~~family day home-based child care~~, or child day center has applied for the background check timely and it has not been obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

**§ 22.1-289.038. Child day programs and home-based child care systems; criminal conviction and waiver.**

A. Any person who seeks to operate, volunteer, or work at a child day program or ~~family day home-based child care~~ system and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a ~~family day home~~ *the home in which home-based child care* regulated by the Department *is provided*, pursuant to § 22.1-289.035, 22.1-289.036, or 22.1-289.039, may apply in writing for a waiver from the Superintendent. The Superintendent may grant a waiver if the Superintendent determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care. The Superintendent shall not grant a waiver to any person who has been convicted of any barrier crime as defined in § 19.2-392.02. However, the Superintendent may grant a waiver to a ~~family day home-based child care~~ licensed or registered by the Department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, provided that (a) five years have elapsed following the conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an assessment of the safety of children placed in the home and (2) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction. Any waiver granted under this section shall be available for inspection by the public. The child day program or ~~family day home-based child care~~ system shall notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees, or volunteers.

B. The Board shall adopt regulations to implement the provisions of this section.

**§ 22.1-289.040. Child day centers and home-based child care receiving federal, state, or local child care funds; eligibility requirements.**

A. Whenever any child day center or ~~family day home~~ *home-based child care* that has not met the requirements of §§ 22.1-289.035, 22.1-289.036, and 22.1-289.039 applies to enter into a contract with the Department or its agents or designees to provide child care services to clients of the Department or its agents

or designees, the Department or its agents or designees shall require a background check, at the time of application to enter into a contract and every five years thereafter, of (i) the applicant; any agents involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a ~~family day~~ *home in which home-based child care is provided* pursuant to § 22.1-289.036; and (ii) all applicants for employment, employees, applicants to serve as volunteers, and volunteers pursuant to § 22.1-289.035. The child day center or ~~family day home~~ *home-based child care* shall not be permitted to enter into a contract with the Department or its agents or designees for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a ~~family day~~ *home in which home-based child care is provided* (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Further dissemination of the information provided to the facility, beyond dissemination to the Department or its agents or designees is prohibited.

B. Every child day center or ~~family day home~~ *home-based child care provider* that enters into a contract with the Department or its agents or designees to provide child care services to clients of the Department or its agents or designees that is funded, in whole or in part, by the Child Care and Development Block Grant, shall comply with all requirements established by federal law and regulations.

**§ 22.1-289.041. Sex offender or child abuser prohibited from operating or residing in home in which home-based child care is provided; penalty.**

It shall be unlawful for any person to operate a ~~family day home~~ *home-based child care* if he, or if he knows that any other person who resides in, is employed by, or volunteers in the home, has been convicted of a felony in violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-355, 18.2-361, 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-371.1, or 18.2-374.1, has been convicted of any offense that requires registration on the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-902, or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. A violation of this section is punishable as a Class 1 misdemeanor.

**§ 22.1-289.042. Establishment of toll-free telephone line for complaints; investigation on receipt of complaints.**

With such funds as are appropriated for this purpose, the Superintendent shall establish a toll-free telephone line to respond to complaints regarding operations of child day programs or ~~family day home-based~~ *child care* systems. Upon receipt of a complaint concerning the operation of a child day program or ~~family day home-based child care~~ system, regardless of whether the program is subject to licensure, the Superintendent shall, for good cause shown, cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, records, and facilities. The child day program or ~~family day home-based child care~~ system shall afford the Superintendent reasonable opportunity to inspect all of the operator's activities, services, records, and facilities and to interview its agents and employees and any child within its control. Whenever a child day program or ~~family day home-based child care~~ system subject to inspection under this section is determined by the Superintendent to be in noncompliance with the provisions of this chapter or with regulations adopted pursuant to this chapter, the Superintendent shall give reasonable notice to the child day program or ~~family day home-based child care~~ system of the nature of its noncompliance and may thereafter take appropriate action as provided by law, including a suit to enjoin the operation of the child day program or ~~family day home-based child care~~ system.

**§ 22.1-289.043. Confidentiality of complainant's identity.**

Whenever the Department conducts inspections and investigations in response to complaints received from the public, the identity of the complainant and the identity of any child who is the subject of the complaint, or identified therein, shall be confidential and shall not be open to inspection by members of the public. Identities of the complainant and child who is the subject of the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from disclosing to the child day program or ~~family day home-based child care~~ system the nature of the complaint or the identity of the child who is the subject of the complaint. Nothing contained herein shall prevent the Department or its employees from making reports under Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. If the Department intends to rely, in whole or in part, on any statements made by the complainant at any administrative hearing brought against child day program or ~~family day home-based child care~~ system, the Department shall disclose the identity of the complainant to the child day program or ~~family day home-based child care~~ system a reasonable time in advance of such hearing.

**§ 22.1-289.044. Retaliation or discrimination against complainants.**

No child day program or ~~family day home-based child care~~ system shall retaliate or discriminate in any manner against any person who (i) in good faith complains or provides information to, or otherwise cooperates with, the Department or any other agency of government or any person or entity operating under contract with an agency of government having responsibility for protecting the rights of children in child day programs and ~~family day system~~ *home-based child care systems*, (ii) attempts to assert any right protected by state or federal law, or (iii) assists any person in asserting such right.

**§ 22.1-289.045. Retaliation against reports of child abuse or neglect.**

No child day program or ~~family day~~ *home-based child care* system shall retaliate in any manner against any person who in good faith reports child abuse or neglect pursuant to Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.

**§ 22.1-289.046. Regulations for child day programs and home-based child care systems.**

A. The Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this chapter, ~~which~~ *that* shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include matters relating to the sex, age, and number of children and other persons to be maintained or cared for, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

Such regulations governing child day programs providing care for school-age children at a location that is currently approved by the Department or recognized as a private school by the Board for school occupancy and that houses a public or private school during the school year shall not (i) prohibit school-age children from using outdoor play equipment and areas approved for use by students of the school during school hours or (ii) in the case of public schools, require inspection or approval of the building, vehicles used to transport children attending the child day program that are owned by the school, or meals served to such children that are prepared by the school.

Such regulations governing orientation and training of child day program staff shall provide that parents or other persons who participate in a cooperative preschool center on behalf of a child attending such cooperative preschool center, including such parents and persons who are counted for the purpose of determining staff-to-child ratios, shall be exempt from orientation and training requirements applicable to staff of child day programs; however, such regulations may require such parents and persons to complete up to four hours of training per year. This orientation and training exemption shall not apply to any parent or other person who participates in a cooperative preschool center that has entered into a contract to provide child care services funded by the Child Care and Development Block Grant.

B. The Board shall adopt or amend regulations, policies, and procedures related to child day care in collaboration with the Virginia Recreation and Park Society. No regulation adopted by the Board shall prohibit a child day center from hiring an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, to provide protection for children placed in the care of the child day center or employees of the center. The Board shall adopt or amend regulations related to therapeutic recreation programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral Health and Developmental Services.

**§ 22.1-289.049. Regulated child day programs to require proof of child identity and age; report to law-enforcement agencies.**

A. Upon enrollment of a child in a regulated child day program, such child day program shall require information from the person enrolling the child regarding previous child day care and schools attended by the child. The regulated child day program shall also require that the person enrolling the child present the regulated child day program with the proof of the child's identity and age. The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction, or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

B. For purposes of this section:

"Proof of identity" means a certified copy of a birth certificate or other reliable proof of the child's identity and age.

"Regulated child day program" is one in which a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period that is licensed pursuant to § 22.1-289.011, voluntarily registered pursuant to § 22.1-289.015, certified as a preschool or nursery school program pursuant to § 22.1-289.032, exempted from licensure as a child day center operated by a religious institution pursuant to § 22.1-289.031, or approved as a ~~family day~~ *home home-based child care* by a licensed ~~family day~~ *home-based child care* system.

C. If the parent, guardian, or other person enrolling the child in a regulated child day program for longer than two consecutive days or other pattern of regular attendance does not provide the information required by subsection A within seven business days of initial attendance, such child day program shall immediately notify the local law-enforcement agency in its jurisdiction of such failure to provide the requested

1671 information.

1672 D. Upon receiving notification of such failure to provide the information required by subsection A, the  
1673 law-enforcement agency shall, if available information warrants, immediately submit an inquiry to the  
1674 Missing Children Information Clearinghouse and, with the assistance of the local department of social  
1675 services, if available information warrants, conduct the appropriate investigation to determine whether the  
1676 child is missing.

1677 E. The Board shall adopt regulations to implement the provisions of this section.

1678 **§ 22.1-289.050. Insurance notice requirements for home-based child care; civil penalty.**

1679 A. Any person who operates a ~~family day home~~ *home-based child care* approved by a licensed ~~family day~~  
1680 *home-based child care* system, a licensed ~~family day home~~ *home-based child care*, or a voluntarily registered  
1681 ~~family day home~~ *home-based child care* shall furnish a written notice to the parent or guardian of each child  
1682 under the care of the ~~family day home~~ *home-based child care*, which states whether there is liability  
1683 insurance in force to cover the operation of the ~~family day home~~ *home-based child care*, provided that no  
1684 person under this section shall state that liability insurance is in place to cover the operation of the ~~family day~~  
1685 ~~home~~ *home-based child care*, unless there is a minimum amount of coverage as established by the  
1686 Department.

1687 B. Each parent or guardian shall acknowledge, in writing, receipt of such notice. In the event there is no  
1688 longer insurance coverage, the person operating the ~~family day home~~ *home-based child care* shall (i) notify  
1689 each parent or guardian within 10 business days after the effective date of the change and (ii) obtain written  
1690 acknowledgment of such notice. A copy of an acknowledgment required under this section shall be  
1691 maintained on file at the ~~family day home~~ *in which home-based child care is provided* at all times while the  
1692 child attends the ~~family day home~~ *home-based child care* and for 12 months after the child's last date of  
1693 attendance.

1694 C. Any person who fails to give any notice required under this section shall be subject to a civil penalty of  
1695 up to \$500 for each such failure.

1696 **§ 22.1-289.055. Public funds to be withheld for serious or persistent violations.**

1697 The Board may adopt policies, as permitted by state and federal law, to restrict the eligibility of a child  
1698 day program or ~~family day home~~ *home-based child care* system to receive or continue to receive funds when such  
1699 agency is found to be in serious or persistent violation of regulations.

1700 **§ 22.1-289.056. Storage of firearms in certain homes in which home-based child care is provided.**

1701 During hours of operation, all firearms in a ~~family day home~~ *in which home-based child care* licensed  
1702 pursuant to § 22.1-289.011 or voluntarily registered pursuant to § 22.1-289.011 *is provided* or in a ~~family day~~  
1703 *home in which home-based child care* approved by a ~~family day home~~ *home-based child care* system *is provided*  
1704 shall be stored unloaded in a locked container, compartment, or cabinet, and all ammunition shall be stored in  
1705 a separate locked container, compartment, or cabinet. The key or combination to such locked containers,  
1706 compartments, or cabinets shall be inaccessible to all children in the home.

1707 **§ 22.1-289.059. Possession and administration of an appropriate weight-based dosage of**  
1708 **epinephrine by employees.**

1709 A. The Board shall amend its regulations to require each child day center to implement policies for the  
1710 possession and administration of epinephrine in every such center to be administered by any nurse at the  
1711 center, employee at the center, or employee of a local health department who is authorized by a prescriber  
1712 and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction.  
1713 Such policies shall require that at least one school nurse, employee at the center, or employee of a local health  
1714 department who is authorized by a prescriber and trained in the administration of epinephrine has the means  
1715 to access at all times during regular facility hours any such appropriate weight-based dosage of epinephrine  
1716 that is stored in a locked or otherwise generally inaccessible container or area.

1717 B. The Board shall amend its regulations to require each ~~family day home~~ *home-based child care* provider  
1718 or at least one other caregiver employed by such provider in the ~~family day home~~ *home-based child care* to  
1719 be trained in the administration of epinephrine and to notify the parents of each child who receives care in  
1720 such ~~family day home~~ *home-based child care* whether the provider stores an appropriate weight-based dosage  
1721 of epinephrine in the residence or home in which the ~~family day home~~ *home-based child care* operates.

1722 **§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records**  
1723 **checks.**

1724 A. As a condition of employment, the governing boards or administrators of private elementary or  
1725 secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts  
1726 employment, whether full time or part time or permanent or temporary, to submit to fingerprinting and to  
1727 provide personal descriptive information to be forwarded along with the applicant's fingerprints through the  
1728 Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining  
1729 criminal history record information regarding such applicant.

1730 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no  
1731 record exists, shall report to the governing board or administrator, or to a private organization coordinating  
1732 such records on behalf of such governing board or administrator pursuant to a written agreement with the

Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of any barrier crime as defined in § 19.2-392.02.

B. The Central Criminal Records Exchange shall not disclose information to such governing board, administrator, or private organization coordinating such records regarding charges or convictions of any crimes. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private elementary or secondary school in which such teacher has accepted employment. Such governing board, administrator, or private organization transferring criminal records information pursuant to this section shall be immune from civil liability for any official act, decision, or omission done or made in the performance of such transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct.

Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

C. The governing board or administrator of a private elementary or secondary school may disclose information in records received pursuant to subsection A to the Virginia Council for Private Education (the Council) or its authorized designee for purposes of seeking or maintaining accreditation by the Council as permitted pursuant to § 22.1-19.

D. The governing board or administrator of a private elementary or secondary school that is accredited pursuant to § 22.1-19 that operates a child day program or ~~family day~~ *home-based child care* system regulated by the Department pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) shall accept evidence of a background check in accordance with § 22.1-289.035 for individuals who are required to undergo a background check in accordance with that section as a condition of employment in lieu of the background check required by subsection A.

E. The governing boards or administrators of private elementary and secondary schools that are accredited pursuant to § 22.1-19 shall adopt and implement policies prohibiting any individual who is a governing board member, administrator, employee, contractor, or agent of a private elementary or secondary school to assist a governing board member, administrator, employee, contractor, or agent of such private elementary or secondary school in obtaining a new job if such individual knows or has probable cause to believe that the individual seeking new employment engaged in sexual misconduct regarding a minor or student in violation of law.

F. For purposes of this section, "governing board" or "administrator" means the unit or board or person designated to supervise operations of a system of private schools or a private school accredited pursuant to § 22.1-19.

Nothing in this section or § 19.2-389 shall be construed to require any private or religious school that is not so accredited to comply with this section.

#### **§ 32.1-46. Immunization of patients against certain diseases.**

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized in accordance with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The required immunizations for attendance at a public or private elementary, middle, or secondary school, a child care center, a nursery school, ~~family day care home~~ *home-based child care*, or a developmental center shall be those set forth in the State Board of Health Regulations for the Immunization of School Children. The Board's regulations shall at a minimum require:

1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).
2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be administered on or after the fourth birthday.
3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered on or after the fourth birthday.
4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the seventh grade.
5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the

1795 manufacturer, for children up to 60 months of age.

1796 6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be  
1797 administered at age 12 months or older.

1798 7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.

1799 8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.

1800 9. Two properly spaced doses of varicella vaccine. The first dose shall be administered at age 12 months  
1801 or older.

1802 10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV).  
1803 One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three  
1804 dose primary series consisted of a combination of OPV and IPV.

1805 11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV)  
1806 vaccine for children up to 60 months of age.

1807 12. Two doses of properly spaced human papillomavirus (HPV) vaccine. The first dose shall be  
1808 administered before the child enters the seventh grade.

1809 13. Two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for children  
1810 up to eight months of age.

1811 14. Two properly spaced doses of hepatitis A vaccine (HAV). The first dose shall be administered at age  
1812 12 months or older.

1813 15. Two properly spaced doses of meningococcal conjugate vaccine (MenACWY). The first dose shall be  
1814 administered prior to entry to seventh grade. The second dose shall be administered prior to entry to twelfth  
1815 grade.

1816 The parent, guardian or person standing in loco parentis may have such child immunized by a physician, a  
1817 physician assistant, an advanced practice registered nurse, a registered nurse, or a licensed practical nurse, or  
1818 a pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate  
1819 local health department, which shall administer the vaccines required by the State Board of Health  
1820 Regulations for the Immunization of School Children without charge to the parent of or person standing in  
1821 loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is  
1822 eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.  
1823 (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the  
1824 Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all  
1825 cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the  
1826 Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for  
1827 all allowable costs associated with the provision of the vaccine. For the purposes of this section, the  
1828 Department shall be deemed a participating provider with a managed care health insurance plan as defined in  
1829 § 32.1-137.1.

1830 B. A physician, a physician assistant, an advanced practice registered nurse, a registered nurse, a licensed  
1831 practical nurse, a pharmacist, or a local health department administering a vaccine required by this section  
1832 shall provide to the person who presents the child for immunizations a certificate that shall state the diseases  
1833 for which the child has been immunized, the numbers of doses given, the dates when administered and any  
1834 further immunizations indicated.

1835 C. The vaccines required by this section shall meet the standards prescribed in, and be administered in  
1836 accordance with, the State Board of Health Regulations for the Immunization of School Children. The State  
1837 Board of Health shall amend the State Board of Health Regulations for the Immunization of School Children  
1838 as necessary from time to time to maintain conformity with evidence-based, routinely recommended  
1839 vaccinations for children. The adoption of such regulations shall be exempt from the requirements of Article  
1840 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). However, the Department shall  
1841 (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior  
1842 to the Board's adoption of the regulations.

1843 D. The provisions of this section shall not apply if:

1844 1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing  
1845 agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been  
1846 declared by the Board;

1847 2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia,  
1848 a licensed advanced practice registered nurse, or a local health department that states that the physical  
1849 condition of the child is such that the administration of one or more of the required immunizing agents would  
1850 be detrimental to the health of the child; or

1851 3. Because the human papillomavirus is not communicable in a school setting, a parent or guardian, at the  
1852 parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to receive the human  
1853 papillomavirus vaccine, after having reviewed materials describing the link between the human  
1854 papillomavirus and cervical cancer approved for such use by the Board.

1855 E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate  
1856 immunizations, any physician, physician assistant, advanced practice registered nurse, licensed institutional

health care provider, or local or district health department, the Virginia Immunization Information System, and the Department of Health may share immunization and patient locator information without parental authorization, including, but not limited to, the month, day, and year of each administered immunization; the patient's name, address, telephone number, birth date, and social security number; and the parents' names. The immunization information; the patient's name, address, telephone number, birth date, and social security number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

F. The State Board of Health shall review this section annually and make recommendations for revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health Care.

**§ 63.2-603. Eligibility for TANF; childhood immunizations.**

An applicant for TANF shall provide verification that all eligible children not enrolled in school, a licensed family day home home-based child care as defined in § 22.1-289.02, or a licensed child day center as defined in § 22.1-289.02, have received immunizations in accordance with § 32.1-46. However, if an eligible child has not received immunizations in accordance with § 32.1-46, verification shall be provided at the next scheduled redetermination of eligibility for TANF after initial eligibility is granted that the child has received at least one dose of each of the immunizations required by § 32.1-46 as appropriate for the child's age and that the child's physician or the local health department has developed a plan for completing the immunizations. Verification of compliance with the plan for completing the immunizations shall be presented at subsequent redeterminations of eligibility for TANF.

If necessary, the local department shall provide assistance to the TANF recipient in obtaining verification from immunization providers. No sanction may be imposed until the reason for the failure to comply with the immunization requirement has been identified and any barriers to accessing immunizations have been removed.

Failure by the recipient to provide the required verification of immunizations shall result in a reduction in the amount of monthly assistance received from the TANF program until the required verification is provided. The reduction shall be \$50 for the first child and \$25 for each additional child for whom verification is not provided.

Any person who becomes ineligible for TANF payments as a result of this provision shall nonetheless be considered a TANF recipient for all other purposes.

**§ 63.2-1506. Family assessments by local departments.**

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Obtain and consider the results of a search of the child abuse and neglect registry for any individual who is the subject of a family assessment. The local board shall determine whether the individual has resided in another state within at least the preceding five years, and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain and consider, in accordance with regulations of the Board, statewide criminal history record information from the Central Criminal Records Exchange for any individual who is the subject of a family assessment;

3. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;

4. Complete the family assessment within 60 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment;

5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;

6. Petition the court for services deemed necessary;

1919 7. Make no disposition of founded or unfounded for reports in which a family assessment is completed.  
1920 Reports in which a family assessment is completed shall not be entered into the central registry contained in  
1921 § 63.2-1515;

1922 8. Commence an immediate investigation, if at any time during the completion of the family assessment,  
1923 the local department determines that an investigation is required; and

1924 9. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the  
1925 family assessment has not been completed and a report has not been transmitted pursuant to subdivision 4;  
1926 (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded  
1927 report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has  
1928 legal custody of the child and provides to the local department any records or other information necessary to  
1929 verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the  
1930 child's other parent or guardian or other person responsible for the care of the child that no court order has  
1931 been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's  
1932 location with the child, the child's other parent or guardian or other person responsible for the care of the  
1933 child, or any member of the household in which the child is located; and (v) disclosure of the child's location  
1934 to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or  
1935 any other person responsible for the care of the child.

1936 C. When a local department has been designated as a child-protective services differential response  
1937 agency by the Department, the local department may investigate any report of child abuse or neglect, but the  
1938 following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii)  
1939 abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left  
1940 alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has  
1941 been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant  
1942 to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a  
1943 caretaker at a state-licensed child day center, *a* religiously exempt child day center, licensed, registered or  
1944 approved ~~family day home~~ *home-based child care*, a private or public school, a hospital, or any institution. If  
1945 a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local  
1946 department shall (a) conduct a family assessment, unless an investigation is required pursuant to this  
1947 subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan  
1948 of safe care in accordance with federal law, regardless of whether the local department makes a finding of  
1949 abuse or neglect.

1950 D. Any individual who is the subject of a family assessment conducted under this section shall notify the  
1951 local department prior to changing his place of residence and provide the local department with the address of  
1952 his new residence.

1953 **§ 63.2-1515. Central registry; disclosure of information.**

1954 The central registry shall contain such information as shall be prescribed by Board regulation; however,  
1955 when the founded case of abuse or neglect does not name the parents or guardians of the child as the abuser  
1956 or neglector, and the abuse or neglect occurred in a licensed or unlicensed child day center as defined in  
1957 § 22.1-289.02; a licensed, registered, or approved ~~family day home~~ *home-based child care* as defined in  
1958 § 22.1-289.02; a private or public school; or a children's residential facility, the child's name shall not be  
1959 entered on the registry without consultation with and permission of the parents or guardians. If a child's name  
1960 currently appears on the registry without consultation with and permission of the parents or guardians for a  
1961 founded case of abuse and neglect that does not name the parents or guardians of the child as the abuser or  
1962 neglector, such parents or guardians may have the child's name removed by written request to the  
1963 Department. The information contained in the central registry shall not be open to inspection by the public.  
1964 However, appropriate disclosure may be made in accordance with Board regulations.

1965 The Department shall respond to requests for a search of the central registry made by (i) local  
1966 departments, (ii) local school boards, and (iii) governing boards or administrators of private schools  
1967 accredited pursuant to § 22.1-19 regarding applicants for employment, pursuant to § 22.1-296.4, in cases  
1968 where there is no match within the central registry within 10 business days of receipt of such requests. In  
1969 cases where there is a match within the central registry regarding applicants for employment, the Department  
1970 shall respond to requests made by local departments, local school boards, and governing boards or  
1971 administrators within 30 business days of receipt of such requests. The request and response may be sent  
1972 electronically or by first-class mail or facsimile transmission.

1973 The Department shall disclose information in the central registry to the Chairmen of the House and Senate  
1974 Committees for Courts of Justice for the purpose of determining if any person being considered for election  
1975 to any judgeship has been the subject of any founded complaint of child abuse or neglect.

1976 Any central registry check of a person who has applied to be a volunteer with a (a) Virginia affiliate of  
1977 Big Brothers/Big Sisters of America, (b) Virginia affiliate of Compeer, (c) Virginia affiliate of Childhelp  
1978 USA, (d) volunteer fire company or volunteer emergency medical services agency, or (e) court-appointed  
1979 special advocate program pursuant to § 9.1-153 shall be conducted at no charge.

1980 **§ 63.2-1527. Board oversight duties; Out-of-Family Investigations Advisory Committee.**



1981 A. The Board shall be responsible for establishing standards for out-of-family investigations and for the  
 1982 implementation of the family assessment track of the differential response system.

1983 B. The Out-of-Family Investigations Advisory Committee (the Committee) is hereby established as an  
 1984 advisory committee in the executive branch of state government.

1985 C. The Committee shall consist of 15 members as follows: one representative of public school employees,  
 1986 one representative of a hospital for children, one representative of a licensed child care center, one  
 1987 representative of a juvenile detention home, one representative of a public or private residential facility for  
 1988 children, one representative of a ~~family day care home~~ *home-based child care*, one representative of a local  
 1989 department of Social Services, one representative of a religious organization with a program for children, one  
 1990 representative of Virginians for Child Abuse Prevention and six citizens of the Commonwealth at large. The  
 1991 Chairman of the Board shall appoint such persons for terms established by the Board.

1992 D. The Committee shall advise the Board on the effectiveness of the policies and standards governing out-  
 1993 of-family investigations.

1994 E. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of  
 1995 the members shall constitute a quorum. The meetings of the Committee shall be held at the call of the  
 1996 chairman or whenever the majority of the voting members so request.

1997 F. Members shall receive no compensation for their services nor be reimbursed for expenses incurred in  
 1998 the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825.

1999 G. The Department of Social Services shall provide staff support to the Committee. All agencies of the  
 2000 Commonwealth shall provide assistance to the Committee, upon request.

2001 **2. That the Board of Education, the Department of Social Services, and any other entity that is affected**  
 2002 **by the provisions of this act shall make such changes to regulations, policies, forms, guidance**  
 2003 **documents, and other documents as it deems necessary to properly effectuate the provisions of this act.**  
 2004 **[ The Department of Education may phase in the terminology changes set forth in this act over a**  
 2005 **period time to ensure that any necessary changes to its information technology systems can be**  
 2006 **integrated into future systems upgrades in order to minimize costs. ]**

ENGROSSED

HB258E