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HOUSE BILL NO. 577

AMENDMENT IN THE NATURE OF A SUBSTITUTE

PROPOSED BUDGET FOR THE FISCAL YEAR 2001
(Proposed by the House Committee on Health and Human Services)

on _____)

(Patron Prior to Substitute—Delegate Glass)

A BILL to amend and reenact § 19.2-389, as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3707.2, relating to social work; licensure; criminal background check.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-389, as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section number 54.1-3707.2 as follows:

§ 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

60 disseminated to any party other than a federal or state authority or court as may be required to comply with an
61 express requirement of law;

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

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

68 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
69 his cost, except that criminal history record information shall be supplied at no charge to a person who has
70 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
71 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
72 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
73 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
74 § 15.2-1713.1;

75 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
76 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
77 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
78 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
79 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
80 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
81 Services' representative or a federal or state authority or court as may be required to comply with an express
82 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
83 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
84 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
85 § 22.1-289.035 or § 22.1-289.039;

86 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended
87 care center for dissemination to the State Health Commissioner's representative pursuant to
88 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and
89 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be
90 further disseminated by the center to any party other than the data subject, the State Health Commissioner's
91 representative, or a federal or state authority or court as may be required to comply with an express
92 requirement of law;

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

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

100 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
101 (§ 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
102 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
103 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

104 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for
105 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to
106 § 32.1-162.15:1.17;

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

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

114 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
115 § 4.1-103.1;

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

119 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
120 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
121 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,

122 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
 123 evaluation, treatment, or discharge planning;

124 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
 125 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
 126 § 18.2-51.4, 18.2-266, or 18.2-266.1;

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

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

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

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

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

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

151 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
 152 determining an individual's fitness for employment, approval as a sponsored residential service provider,
 153 permission to enter into a shared living arrangement with a person receiving medical assistance services
 154 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
 155 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
 156 37.2-506.1, and 37.2-607;

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

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

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

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

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

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

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

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

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

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

197 41. The State Corporation Commission for the purpose of investigating individuals who are current or
198 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
199 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.
200 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
201 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
202 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
203 or its designee;

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

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

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

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

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

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

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

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

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

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

236 52. Other entities as otherwise provided by law.

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

241 Notwithstanding any other provision of this chapter to the contrary, upon a written request ~~sworn to~~
242 before an officer authorized to take acknowledgments, from an individual to the Central Criminal Records
243 Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange,
244 shall furnish a copy of conviction data covering the person named in the request to the person making the
245 request; however, such person on whom the data is being obtained shall consent in writing, ~~under oath~~, to the

246 making of such request. A person receiving a copy of his own conviction data may utilize or further
 247 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
 248 subject, the person making the request shall be furnished at his cost a certification to that effect.

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

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

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

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

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

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

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

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

287 *J. Criminal History Record Information obtained through a national background check, including any
 288 information obtained through a statute approved under P.L. 92-544, shall not be further disseminated under
 289 this section, even if the national criminal history record information is maintained in the records of an
 290 agency or entity of the Commonwealth.*

291 **§ 54.1-3707.2. Criminal background check.**

292 *The Board shall require each applicant for licensure as a baccalaureate social worker, master's social
 293 worker, or clinical social worker to submit fingerprints and provide personal descriptive information to be
 294 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau
 295 of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The
 296 cost of fingerprinting and the criminal history record search shall be paid by the applicant.*

297 *The Central Criminal Records Exchange shall forward the results of the state and federal criminal history
 298 record search to the Board, which shall be a governmental entity. If an applicant is denied licensure because
 299 of information appearing on his criminal history record and the applicant disputes the information upon
 300 which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to
 301 the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of
 302 Investigation and the Central Criminal Records Exchange. Such information shall not be disseminated except
 303 as provided in this section.*