

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 63.2-901.2, relating to kinship foster*
 3 *care; barrier crime waiver.*

4 [S 305]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 63.2-901.2 as follows:**8 **§ 63.2-901.2. Barrier crime waivers for kinship foster parents.**

9 *A. No local board shall approve a kinship foster home, as permitted pursuant to 63.2-900.1, if any*
 10 *individual's background check conducted pursuant to § 63.2-901.1 returns a conviction for a barrier crime as*
 11 *defined in § 19.2-392.02 and the individual does not meet the exceptions in subsection E, F, or G of*
 12 *§ 63.2-901.1 or subsection G or H of § 63.2-1721. However, if an individual or adult household member has*
 13 *been convicted of a barrier crime as defined in § 19.2-392.02 that is not (i) identified as a federal barrier*
 14 *crime pursuant to 42 U.S.C. § 671(a)(20); (ii) a violent felony offense as defined in subsection C of*
 15 *§ 17.1-805; or (iii) an offense requiring registration pursuant to § 9.1-902, the local department may apply to*
 16 *the Department on behalf of such individual for a barrier crime waiver.*

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

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

23 1. *The type of crime for which the individual was convicted;*24 2. *The number of convictions;*25 3. *The nature of the offense or offenses;*26 4. *The age of the individual at the time of each conviction;*27 5. *The length of time that has elapsed since the last conviction;*28 6. *The relationship between the crime for which the individual was convicted and the capacity to care for*
 29 *children;*30 7. *Any evidence of rehabilitation; and*31 8. *Opinions of community members concerning the individual.*

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

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

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

46 **3. That the Department of Social Services (the Department) shall file an annual report by December 1**
 47 **of each year detailing the specifics of the waiver process to the Senate Committee on Rehabilitation and**
 48 **Social Services and the House Committee on Health and Human Services. Such report shall include (i)**
 49 **the number of waivers submitted by locality, (ii) the types of requests submitted, (iii) the disposition of**
 50 **the waiver requests, and (iv) a summary of all requests made to the Department. The Department shall**
 51 **submit the initial report required pursuant to this enactment by December 1, 2026.**