

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 9.1-914, 15.2-914, 15.2-2292, 18.2-371.1, 19.2-389, as it is currently*
 3 *effective and as it shall become effective, 20-124.6, 22.1-289.02, 22.1-289.04, 22.1-289.05:1 through*
 4 *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,*
 5 *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*
 6 *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,*
 7 *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*
 8 *early childhood care and education; terminology.*

9 [H 258]

10 Approved

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

12 **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**
 13 **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,**
 14 **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,**
 15 **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,**
 16 **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,**
 17 **63.2-1515, and 63.2-1527 of the Code of Virginia are amended and reenacted as follows:**

18 **§ 9.1-914. Automatic notification of registration to certain entities; electronic notification to**
 19 **requesting persons.**

20 Any school or day-care service and child-minding service; state-regulated or state-licensed child day
 21 center, child day program, or ~~family day home~~ *home-based child care* as those terms are defined in
 22 § 22.1-289.02; assisted living facility, children's residential facility, or foster home as those terms are defined
 23 in § 63.2-100; nursing home or certified nursing facility as those terms are defined in § 32.1-123; association
 24 of a common interest community as defined in § 54.1-2345; and institution of higher education may request
 25 from the State Police and, upon compliance with the requirements therefor established by the State Police,
 26 shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or
 27 verification of registration information of any offender and if such entities do not have the capability of
 28 receiving such electronic notice, the entity may register with the State Police to receive written notification of
 29 offender registration, reregistration, or verification of registration information. Within three business days of
 30 receipt by the State Police of registration, reregistration, or verification of registration information, the State
 31 Police shall electronically or in writing notify an entity listed above that has requested such notification, has
 32 complied with the requirements established by the State Police and is located in the same or a contiguous zip
 33 code area as the address of the offender as shown on the registration.

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

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

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

49 For the purposes of this section:

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

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

54 "School" means any public, religious or private educational institution, including any preschool,
 55 elementary school, secondary school, post-secondary school, trade or professional institution, or institution of
 56 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~~

119 *based child care* system as defined in § 22.1-289.02 without first obtaining a license such person knows is
 120 required by Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2 or Article 3 (§ 22.1-289.010 et seq.) of Chapter
 121 14.1 of Title 22.1 or after such license has been revoked or has expired and not been renewed.

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

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

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

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

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

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

154 **§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

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

157 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
 158 the administration of criminal justice and the screening of an employment application or review of
 159 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
 160 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
 161 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of
 162 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this
 163 subdivision, criminal history record information includes information sent to the Central Criminal Records
 164 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
 165 of the State Police, a police department or sheriff's office that is a part of or administered by the
 166 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
 167 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
 168 the administration of criminal justice;

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

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

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

181 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

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

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

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

192 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
193 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position
194 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
195 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction
196 record would be compatible with the nature of the employment under consideration;

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

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

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

210 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
211 his cost, except that criminal history record information shall be supplied at no charge to a person who has
212 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
213 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
214 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
215 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
216 § 15.2-1713.1;

217 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
218 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
219 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
220 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
221 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
222 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
223 Services' representative or a federal or state authority or court as may be required to comply with an express
224 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
225 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
226 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
227 § 22.1-289.035 or § 22.1-289.039;

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

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

235 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
236 (§ 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
237 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
238 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

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

246 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
 247 § 4.1-103.1;

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

251 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
 252 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
 253 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,
 254 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
 255 evaluation, treatment, or discharge planning;

256 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
 257 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
 258 § 18.2-51.4, 18.2-266, or 18.2-266.1;

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

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

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

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

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

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

283 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
 284 determining an individual's fitness for employment, approval as a sponsored residential service provider,
 285 permission to enter into a shared living arrangement with a person receiving medical assistance services
 286 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
 287 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
 288 37.2-506.1, and 37.2-607;

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

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

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

303 32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee
 304 for Courts of Justice for the purpose of determining if any person being considered for election to any

305 judgeship has been convicted of a crime;

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

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

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

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

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

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

329 39. The State Corporation Commission for the purpose of investigating individuals who are current or
330 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
331 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.
332 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
333 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
334 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
335 or its designee;

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

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

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

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

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

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

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

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

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

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

369 50. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

420 **§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.**

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

423 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
424 the administration of criminal justice and the screening of an employment application or review of
425 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
426 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
427 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of
428 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this

429 subdivision, criminal history record information includes information sent to the Central Criminal Records
430 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
431 of the State Police, a police department or sheriff's office that is a part of or administered by the
432 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
433 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
434 the administration of criminal justice;

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

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

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

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

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

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

458 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
459 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position
460 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
461 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction
462 record would be compatible with the nature of the employment under consideration;

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

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

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

476 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
477 his cost, except that criminal history record information shall be supplied at no charge to a person who has
478 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
479 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
480 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
481 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in
482 § 15.2-1713.1;

483 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
484 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
485 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
486 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
487 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
488 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
489 Services' representative or a federal or state authority or court as may be required to comply with an express
490 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to

491 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
 492 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of
 493 § 22.1-289.035 or § 22.1-289.039;

494 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended
 495 care center for dissemination to the State Health Commissioner's representative pursuant to
 496 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and
 497 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be
 498 further disseminated by the center to any party other than the data subject, the State Health Commissioner's
 499 representative, or a federal or state authority or court as may be required to comply with an express
 500 requirement of law;

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

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

508 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
 509 (§ 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
 510 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
 511 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

512 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for
 513 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to
 514 § 32.1-162.15:1.17;

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

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

522 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in
 523 § 4.1-103.1;

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

527 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
 528 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
 529 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,
 530 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
 531 evaluation, treatment, or discharge planning;

532 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
 533 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under
 534 § 18.2-51.4, 18.2-266, or 18.2-266.1;

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

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

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

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

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

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

559 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
560 determining an individual's fitness for employment, approval as a sponsored residential service provider,
561 permission to enter into a shared living arrangement with a person receiving medical assistance services
562 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
563 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
564 37.2-506.1, and 37.2-607;

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

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

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

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

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

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

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

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

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

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

605 41. The State Corporation Commission for the purpose of investigating individuals who are current or
606 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
607 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.
608 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
609 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
610 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
611 or its designee;

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

614 43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision

615 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
 616 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
 617 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

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

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

629 49. Administrators and board presidents of and applicants for licensure or registration as a child day
 630 program or ~~family day~~ *home-based child care* system, as such terms are defined in § 22.1-289.02, for
 631 dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the
 632 conduct of investigations with respect to employees of and volunteers at such facilities pursuant to
 633 §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further
 634 disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public
 635 Instruction's representative, or a federal or state authority or court as may be required to comply with an
 636 express requirement of law for such further dissemination; however, nothing in this subdivision shall be
 637 construed to prohibit the Superintendent of Public Instruction's representative from issuing written
 638 certifications regarding the results of prior background checks in accordance with subsection J of
 639 § 22.1-289.035 or § 22.1-289.039;

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

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

645 52. Other entities as otherwise provided by law.

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

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

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

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

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

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

676 F. Criminal history information provided to licensed assisted living facilities and licensed adult day

677 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any
678 offense specified in § 63.2-1720.

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

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

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

696 **§ 20-124.6. Access to minor's records.**

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

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

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

715 **§ 22.1-289.02. Definitions.**

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

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

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

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

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

735 "~~Family day system~~" means ~~any person who approves family day homes as members of its system; who~~
736 ~~refers children to available family day homes in that system; and who, through contractual arrangement, may~~
737 ~~provide central administrative functions including, but not limited to, training of operators of member homes;~~
738 ~~technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and~~

739 evaluation of member homes; and referral of children to available health and social services.

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

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

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

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

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

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

776 **§ 22.1-289.04. Early childhood care and education advisory committee.**

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

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

806 **§ 22.1-289.05:1. (Expires July 1, 2029) Small Home-Based Child Care Provider Incentive Pilot**
 807 **Program.**

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

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

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

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

823 b. That is voluntarily registered or otherwise unlicensed when such home achieves licensure pursuant to
 824 § 22.1-289.011; and

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

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

832 **§ 22.1-289.06. Confidential records and information; penalty.**

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

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

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

848 **§ 22.1-289.07. Information related to shaken baby syndrome.**

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

854 **§ 22.1-289.08. Board to investigate child day programs at direction of Governor.**

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

861 **§ 22.1-289.010. Application fees; regulations and schedules; use of fees; certain facilities, centers**
 862 **and agencies exempt.**

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

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

878 **§ 22.1-289.011. Licenses required; issuance, expiration, and renewal; maximum number of**
 879 **participants or children; posting of licenses.**

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

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

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

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

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

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

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

908 **§ 22.1-289.012. Local government to report business licenses issued to child day centers and home-**
 909 **based child care.**

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

913 **§ 22.1-289.014. Variances.**

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

921 **§ 22.1-289.015. Voluntary registration of home-based child care; inspections; investigation upon**
 922 **receipt of complaint; revocation or suspension of registration.**

923 A. Any person who ~~maintains a family day~~ *home provides home-based child care* serving fewer than five
 924 children, exclusive of the provider's own children and any children who reside in the home, may apply for

925 voluntary registration. An applicant for voluntary registration shall file with the Superintendent, prior to
 926 beginning any such operation and thereafter biennially, an application which shall include, but not be limited
 927 to, the following:

928 1. The name, address, phone number, and social security number of the person maintaining the ~~family day~~
 929 ~~home~~ *home-based child care*;

930 2. The number and ages of the children to receive care;

931 3. A sworn statement or affirmation in which the applicant attests to the accuracy of the information
 932 submitted to the Superintendent; and

933 4. Documentation that the background check requirements for registered ~~family day homes~~ *home-based*
 934 *child care* in Article 5 (§ 22.1-289.034 et seq.) have been met.

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

937 1. The criteria and process for the approval of the certificate of registration;

938 2. Requirements for a self-administered health and safety guidelines evaluation checklist;

939 3. A schedule for fees to be paid by the providers to the contract organization or to the Department if it
 940 implements the provisions of this section for processing applications for the voluntary registration of ~~family~~
 941 ~~day homes~~ *home-based child care*. The charges collected shall be maintained for the purpose of recovering
 942 administrative costs incurred in processing applications and certifying such homes as eligible or registered;

943 4. The criteria and process for the renewal of the certificate of registration; and

944 5. The requirement that upon receipt of a complaint concerning a registered ~~family day home~~ *home-based*
 945 *child care*, the Superintendent shall cause an investigation to be made, including on-site visits as he deems
 946 necessary, of the activities, services, and facilities. The person who maintains such home shall afford the
 947 Superintendent reasonable opportunity to inspect the operator's facilities and records and to interview any
 948 employees and any child or other person within his custody or control. Whenever a registered ~~family day~~
 949 ~~home~~ *home-based child care* is determined by the Superintendent to be in noncompliance with the
 950 regulations for voluntarily registered ~~family day homes~~ *home-based child care*, the Superintendent shall give
 951 reasonable notice to the operator of the nature of the noncompliance and may thereafter revoke or suspend the
 952 registration.

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

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

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

966 1. The identification of ~~family day homes~~ *home-based child care* which may meet the standards for
 967 voluntary registration provided in subsection A; and

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

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

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

984 **§ 22.1-289.016. Unlicensed and unregistered home-based child care; notice to parents.**

985 Every unlicensed, unregistered ~~family day home~~ *home-based child care provider* shall provide written
 986 notice to the parents of every child receiving care, at the time the ~~family day home~~ *home-based child care*

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

992 **§ 22.1-289.017. Compliance with Uniform Statewide Building Code.**

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

996 **§ 22.1-289.018. Inspections and interviews.**

997 A. Applicants for licensure and licensees shall at all times afford the Superintendent reasonable
 998 opportunity to inspect all of their facilities, books and records, and to interview their agents and employees
 999 and any person living or participating in such facilities, or under their custody, control, direction, or
 1000 supervision. Interviews conducted pursuant to this section with persons living or participating in a facility
 1001 operated by or under the custody, control, direction, or supervision of an applicant for licensure or a licensee
 1002 shall be (i) authorized by the person to be interviewed or his legally authorized representative and (ii) limited
 1003 to discussion of issues related to the applicant's or licensee's compliance with applicable laws and regulations,
 1004 including ascertaining if assessments and reassessments of residents' cognitive and physical needs are
 1005 performed as required under regulations of the Board.

1006 B. All licensed child day programs and ~~family day home-based child care~~ systems shall be inspected not
 1007 less than twice annually, and one of those inspections shall be unannounced.

1008 C. The activities, services, and facilities of each applicant for renewal of his license as a child day
 1009 program or ~~family day home-based child care~~ system shall be subject to an inspection or examination by the
 1010 Superintendent to determine if he is in compliance with current regulations of the Board.

1011 D. The Superintendent may authorize such other announced or unannounced inspections as the
 1012 Superintendent considers appropriate.

1013 **§ 22.1-289.019. Inspections of child day programs and home-based child care systems;**
 1014 **prioritization.**

1015 The Superintendent shall prioritize inspections of child day programs and ~~family day home-based child~~
 1016 *care* systems in the following order: (i) inspections conducted in response to a complaint involving a
 1017 licensed, registered, license-exempt, or unlicensed child day program or ~~family day home-based child care~~
 1018 system; (ii) inspections of licensed or registered child day programs and ~~family day home-based child care~~
 1019 systems that are not conducted in response to a complaint; (iii) inspections of license-exempt or unlicensed
 1020 child day programs and ~~family day home-based child care~~ systems that have entered into a contract with the
 1021 Department or its agents or designees or a local department of social services to provide child care services
 1022 funded by the Child Care and Development Block Grant, other than inspections conducted in response to a
 1023 complaint; and (iv) inspections of license-exempt and unlicensed child day programs and ~~family day home-~~
 1024 *based child care* systems that are not conducted in response to a complaint.

1025 **§ 22.1-289.021. Records and reports.**

1026 Every licensed or registered child day program and ~~family day home-based child care~~ system shall keep
 1027 such records and make such reports to the Superintendent as he may require. The forms to be used in the
 1028 making of such reports shall be prescribed and furnished by the Superintendent.

1029 **§ 22.1-289.022. Enforcement and sanctions; child day programs and home-based child care systems;**
 1030 **revocation and denial.**

1031 A. The Superintendent may revoke or deny the renewal of the license of any child day program or ~~family~~
 1032 *day home-based child care* system that violates any provision of this chapter or fails to comply with the
 1033 limitations and standards set forth in its license.

1034 B. Pursuant to the procedures set forth in subsection C, and in addition to the authority for other
 1035 disciplinary actions provided in this title, the Superintendent may issue a notice of summary suspension of the
 1036 license of any child day program or ~~family day home-based child care~~ system, in conjunction with any
 1037 proceeding for revocation, denial, or other action, when conditions or practices exist in the child day program
 1038 or ~~family day home-based child care~~ system that pose an immediate and substantial threat to the health,
 1039 safety, and welfare of the children receiving care, and the Superintendent believes the operation of the child
 1040 day program or ~~family day home-based child care~~ system should be suspended during the pendency of such
 1041 proceeding.

1042 C. A notice of summary suspension issued by the Superintendent to a child day program or ~~family day~~
 1043 *home-based child care* system shall set forth (i) the summary suspension procedures; (ii) hearing and appeal
 1044 rights as provided in this subsection; (iii) facts and evidence that formed the basis for the summary
 1045 suspension; and (iv) the time, date, and location of a hearing to determine whether the summary suspension is
 1046 appropriate. Such notice shall be served on the child day program or ~~family day home-based child care~~
 1047 system or its designee as soon as practicable thereafter by personal service or certified mail, return receipt
 1048 requested, to the address of record of the child day program or ~~family day home-based child care~~ system.

1049 The summary suspension hearing shall be presided over by a hearing officer selected by the
 1050 Superintendent from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be
 1051 held as soon as practicable, but in no event later than 15 business days following service of the notice of
 1052 summary suspension; however, the hearing officer may grant a written request for a continuance, not to
 1053 exceed an additional 10 business days, for good cause shown. Within 10 business days after such hearing, the
 1054 hearing officer shall provide to the Superintendent written findings and conclusions, together with a
 1055 recommendation as to whether the license should be summarily suspended.

1056 Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation,
 1057 the Superintendent may issue a final order of summary suspension or an order that such summary suspension
 1058 is not warranted by the facts and circumstances presented. The Superintendent shall adopt the hearing
 1059 officer's recommended decision unless to do so would be an error of law or Department policy. In the event
 1060 that the Superintendent rejects the hearing officer's findings, conclusions, or recommendation, the
 1061 Superintendent shall state with particularity the basis for rejection. In issuing a final order of summary
 1062 suspension, the Superintendent may choose to suspend the license of the child day program or ~~family day~~
 1063 *home-based child care* system or to suspend only certain authority of the child day program or ~~family day~~
 1064 *home-based child care* system to operate, including the authority to provide certain services or perform
 1065 certain functions that the Superintendent determines should be restricted or modified in order to protect the
 1066 health, safety, or welfare of the children receiving care. A final order of summary suspension shall include
 1067 notice that the licensee may appeal the Superintendent's decision to the appropriate circuit court no later than
 1068 10 days following service of the order. The sole issue before the court shall be whether the Superintendent
 1069 had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent
 1070 revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be
 1071 affected by the outcome of any hearing on the appropriateness of the summary suspension.

1072 A copy of any final order of summary suspension shall be prominently displayed by the child day
 1073 program or ~~family day~~ *home-based child care* system at each public entrance of the facility, or in lieu thereof,
 1074 the child day program or ~~family day~~ *home-based child care* system may display a written statement
 1075 summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface,
 1076 and identifying the location within the facility where the final order of summary suspension may be reviewed.

1077 The willful and material failure to comply with the final order of summary suspension constitutes a
 1078 violation of subdivision 3 of § 22.1-289.027.

1079 The provisions of this subsection shall not apply to any child day program or ~~family day~~ *home-based child*
 1080 *care* system operated by an agency of the Commonwealth, which shall instead be governed by the provisions
 1081 of subsection D.

1082 D. Whenever the Superintendent issues a summary order of suspension of the license to operate a child
 1083 day program or ~~family day~~ *home-based child care* system operated by an agency of the Commonwealth:

1084 1. Before such summary order of suspension shall take effect, the Superintendent shall issue to the child
 1085 day program or ~~family day~~ *home-based child care* system a notice of summary order of suspension setting
 1086 forth (i) the procedures for a hearing and right of review as provided in this section and (ii) facts and evidence
 1087 that formed the basis on which the summary order of suspension is sought. Such notice shall be served on the
 1088 licensee or its designee as soon as practicable thereafter by personal service or certified mail, return receipt
 1089 requested, to the address of record of the licensee. The notice shall state the time, date, and location of a
 1090 hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three
 1091 business days after the issuance of the notice of the summary order of suspension and shall be convened by
 1092 the Superintendent or his designee. After such hearing, the Superintendent may issue a final order of
 1093 summary suspension or may find that such summary suspension is not warranted by the facts and
 1094 circumstances presented.

1095 2. A final order of summary suspension shall include notice that the licensee may request, in writing and
 1096 within three business days after receiving the Superintendent's decision, that the Superintendent refer the
 1097 matter to the Secretary of Education for resolution within three business days of the referral. Any
 1098 determination by the Secretary shall be final and not subject to judicial review. If the final order of summary
 1099 suspension is upheld, it shall take effect immediately, and a copy of the final order of summary suspension
 1100 shall be prominently displayed by the licensee at each public entrance of the facility. Any concurrent
 1101 revocation, denial, or other proceedings shall not be affected by the outcome of any determination by the
 1102 Secretary.

1103 **§ 22.1-289.023. Enforcement and sanctions; special orders; civil penalties.**

1104 A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the
 1105 Superintendent may issue a special order (i) for violation of any of the provisions of this chapter,
 1106 § 54.1-3408, or any regulation adopted under any provision of this chapter which violation adversely affects,
 1107 or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii)
 1108 for permitting, aiding, or abetting the commission of any illegal act in a child day program or ~~family day~~
 1109 *home-based child care* system. Notice of the Superintendent's intent to take any of the actions enumerated in
 1110 subdivisions B 1 through 6 shall be provided by the Department, and a copy of such notice shall be posted in

1111 a prominent place at each public entrance of the licensed premises to advise consumers of serious or
 1112 persistent violations. The issuance of a special order shall be considered a case decision as defined in
 1113 § 2.2-4001. Actions set forth in subsection B may be appealed by (a) a child day program or ~~family day~~
 1114 ~~home-based child care~~ system operated by an agency of the Commonwealth in accordance with
 1115 § 22.1-289.025 or (b) any other child day program or ~~family day home-based child care~~ system in accordance
 1116 with the Administrative Process Act (§ 2.2-4000 et seq.). The Superintendent shall not delegate his authority
 1117 to impose civil penalties in conjunction with the issuance of special orders.

1118 B. The Superintendent may take the following actions regarding child day programs and ~~family day home-~~
 1119 ~~based child care~~ systems through the issuance of a special order and may require a copy of the special order
 1120 provided by the Department to be posted in a prominent place at each public entrance of the licensed
 1121 premises to advise consumers of serious or persistent violations:

1122 1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the
 1123 terms of its license and that the health and safety of children are at risk;

1124 2. Reduce licensed capacity or prohibit new admissions when the Superintendent concludes that the
 1125 licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary
 1126 restriction of its scope of service;

1127 3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee,
 1128 when the Superintendent concludes that the lack of such training has led directly to violations of regulations;

1129 4. Assess civil penalties of not more than \$500 per inspection upon finding that the child day program or
 1130 ~~family day home-based child care~~ system is substantially out of compliance with the terms of its license and
 1131 the health and safety of children are at risk; however, no civil penalty shall be imposed pursuant to this
 1132 subdivision on any child day program or ~~family day home-based child care~~ system operated by an agency of
 1133 the Commonwealth;

1134 5. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health
 1135 and safety violations; and

1136 6. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the
 1137 regulations from receiving public funds.

1138 C. The Board shall adopt regulations to implement the provisions of this section.

1139 **§ 22.1-289.024. Appeal from refusal, denial of renewal, or revocation of license.**

1140 A. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for a
 1141 child day program or ~~family day home-based child care~~ system operated by an agency of the Commonwealth,
 1142 the provisions of § 22.1-289.025 shall apply. Whenever the Superintendent refuses to issue a license or to
 1143 renew a license or revokes a license for any child day program or ~~family day home-based child care~~ system
 1144 other than a child day program or ~~family day home-based child care~~ system operated by an agency of the
 1145 Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that
 1146 all appeals from notice of the Superintendent's intent to refuse to issue or renew, or revoke a license shall be
 1147 received in writing from the child day program or ~~family day home-based child care~~ system operator within
 1148 15 days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in
 1149 accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the
 1150 Supreme Court or the Court of Appeals.

1151 B. In every appeal to a court of record, the Superintendent shall be named defendant.

1152 C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for
 1153 operation without a license.

1154 D. When issuance or renewal of a license for a child day program or ~~family day home-based child care~~
 1155 system has been refused by the Superintendent, the applicant shall not thereafter for a period of six months
 1156 apply again for such license unless the Superintendent in his sole discretion believes that there has been such
 1157 a change in the conditions on account of which he refused the prior application as to justify considering the
 1158 new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period
 1159 shall be extended until a final decision has been rendered on appeal.

1160 **§ 22.1-289.025. Right to appeal notice of intent; child day programs and home-based child care**
 1161 **systems operated by agencies of the Commonwealth.**

1162 Any child day program or ~~family day home-based child care~~ system operated by an agency of the
 1163 Commonwealth shall have the right to appeal any notice of intent as follows:

1164 1. Within 30 days after receiving a notice of intent to impose a sanction, the licensee shall request in
 1165 writing that the Superintendent review the intended agency action and may submit, together with such
 1166 request, relevant information, documentation, or other pertinent data supporting its appeal. The
 1167 Superintendent shall issue a decision within 60 days after receiving the request and shall have the authority to
 1168 uphold the sanction or take whatever action he deems appropriate to resolve the controversy.

1169 2. If the child day program or ~~family day home-based child care~~ system disputes the Superintendent's
 1170 decision, the licensee shall request, within 30 days of receiving the Superintendent's decision, that the
 1171 Superintendent refer the matter to the Secretary of Education. The Secretary shall issue a decision within 60
 1172 days of receiving the request for review. The Secretary's decision shall be final and shall not be subject to

1173 review.

1174 **§ 22.1-289.026. Injunction against operation without license.**

1175 Any circuit court having jurisdiction in the county or city where the principal office of any child day
1176 program or ~~family day~~ *home-based child care* system is located shall, at the suit of the Superintendent, have
1177 jurisdiction to enjoin its operation without a license required by this chapter.

1178 **§ 22.1-289.027. Offenses; penalty.**

1179 Any person, and each officer and each member of the governing board of any association or corporation
1180 that operates a child day program or ~~family day~~ *home-based child care* system, shall be guilty of a Class 1
1181 misdemeanor if he:

1182 1. Interferes with any representative of the Superintendent in the discharge of his duties under this
1183 chapter;

1184 2. Makes to the Superintendent or any representative of the Superintendent any report or statement, with
1185 respect to the operation of any child day program or ~~family day~~ *home-based child care system*, that is
1186 known by such person to be false or untrue;

1187 3. Operates or engages in the conduct of a child day program or ~~family day~~ *home-based child care* system
1188 without first obtaining a license as required by this chapter or after such license has been revoked or
1189 suspended or has expired and not been renewed. No violation shall occur if the agency has applied to the
1190 Department for renewal prior to the expiration date of the license. Every day's violation of this subdivision
1191 shall constitute a separate offense; or

1192 4. Operates or engages in the conduct of a child day program or ~~family day~~ *home-based child care* system
1193 serving more persons than the maximum stipulated in the license.

1194 **§ 22.1-289.028. Misleading advertising prohibited.**

1195 No child day program or ~~family day~~ *home-based child care* system shall make, publish, disseminate,
1196 circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated,
1197 circulated or placed before the public in this Commonwealth, in a newspaper or other publication; in the form
1198 of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet, or letter; or via
1199 electronic mail, website, automatic mailing list services (listservs), newsgroups, facsimile, chat rooms; or in
1200 any other way an advertisement of any sort regarding services or anything so offered to the public, which
1201 advertisement contains any promise, assertion, representation or statement of fact that is untrue, deceptive, or
1202 misleading.

1203 **§ 22.1-289.030. Exemptions from licensure.**

1204 A. The following programs are not child day programs and shall not be required to be licensed:

1205 1. A program of instructional experience in a single focus, such as, but not limited to, computer science,
1206 archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is
1207 allowed to attend for more than 25 days in any three-month period commencing with enrollment. This
1208 exemption does not apply if children merely change their enrollment to a different focus area at a site offering
1209 a variety of activities and such children's attendance exceeds 25 days in a three-month period.

1210 2. Programs of instructional or recreational activities wherein no child under age five attends for more
1211 than six hours weekly with no class or activity period to exceed one and one-half hours, and no child five
1212 years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly
1213 when school is not in session. Competition, performances, and exhibitions related to the instructional or
1214 recreational activity shall be excluded when determining the hours of program operation.

1215 3. Instructional programs offered by private schools that serve school-age children and that satisfy
1216 compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as
1217 amended, and programs of school-sponsored extracurricular activities that are focused on single interests
1218 such as, but not limited to, music, sports, drama, civic service, or foreign language.

1219 4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory
1220 attendance laws, or provide services under the Individuals with Disabilities Education Act (20 U.S.C. § 1400
1221 et seq.), as amended, and programs of school-sponsored extracurricular activities that are focused on single
1222 interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

1223 5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities
1224 Education Act (20 U.S.C. § 1431 et seq.), as amended, wherein no child attends for more than a total of six
1225 hours per week.

1226 6. Practice or competition in organized competitive sports leagues.

1227 7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat
1228 Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified
1229 religious services or related activities to allow parents or guardians or their designees who are on site to
1230 attend such religious services and activities.

1231 8. A program of instructional or athletic experience operated during the summer months by, and as an
1232 extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and
1233 administered by the Virginia Council for Private Education.

1234 9. Programs providing instructional experience in horse riding, provided that (i) such a program is taught

1235 (a) by an adult with a recognized certification in horse riding instruction and (b) to fewer than 12 children at
 1236 any time, (ii) at least one adult actively supervises no more than three children at any time during such a
 1237 program, and (iii) the majority of programming for any such program relates to horse riding and equine
 1238 activities.

1239 B. The following child day programs shall not be required to be licensed:

1240 1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

1241 2. A program where, by written policy given to and signed by a parent or guardian, school-age children
 1242 are free to enter and leave the premises without permission. A program that would qualify for this exemption
 1243 except that it assumes responsibility for the supervision, protection, and well-being of several children with
 1244 disabilities who are mainstreamed shall not be subject to licensure.

1245 3. A program that operates no more than a total of 20 program days in the course of a calendar year,
 1246 provided that programs serving children under age six operate no more than two consecutive weeks without a
 1247 break of at least a week.

1248 4. Child-minding services that are not available for more than three hours per day for any individual child
 1249 offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and
 1250 can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing
 1251 services or participating in activities offered by the establishment.

1252 5. A certified preschool or nursery school program operated by an accredited private school as set forth in
 1253 § 22.1-19 and administered by the Virginia Council for Private Education that complies with the provisions
 1254 of § 22.1-289.032.

1255 6. A program of recreational activities offered by local governments, staffed by local government
 1256 employees, and attended by school-age children. Such programs shall be subject to safety and supervisory
 1257 standards established by the local government offering the program.

1258 7. A program offered by a local school division, operated for no more than four hours per day on full
 1259 instructional days or for more than four hours per day on shortened instructional days or noninstructional
 1260 days, staffed by local school division employees, and attended by children who are at least three years of age
 1261 and are enrolled in public school or a preschool program within such school division. Such programs shall be
 1262 subject to safety and supervisory standards established by the local school division offering the program.

1263 8. Child-minding services offered by a business on the premises of the business to no more than four
 1264 children under the age of 13 at any given time and for no more than eight hours per day, provided that the
 1265 parent or guardian of every child receiving care is an employee of the business who is on the premises of the
 1266 business and can resume responsibility for the child's supervision within 30 minutes upon request.

1267 9. A program offered by a private school accredited by and in good standing with the Virginia Council for
 1268 Private Education, operated for no more than four hours per day, staffed by the accredited private school's
 1269 employees, and attended by school-age children who are enrolled in the accredited private school. Such
 1270 programs shall be subject to safety and supervisory standards established by the Virginia Council for Private
 1271 Education.

1272 10. A child day program that (i) serves only dependent children of military personnel and (ii) (a) is located
 1273 on a military base or federal property or (b) is certified as a family child care provider by a branch of the
 1274 Armed Forces of the United States. Any branch of the Armed Forces of the United States or its agent,
 1275 including an installation commander of a military base on which a child day program is located, may assume
 1276 responsibility for approving or determining which children may be served by the program that is so exempted
 1277 from licensure.

1278 11. An out-of-school time program pursuant to § 22.1-289.02 that (i) is affiliated with a national
 1279 organization with established health and safety requirements; (ii) is in compliance with any health and safety
 1280 requirements established by the national organization described in clause (i); (iii) has adopted standards and
 1281 requirements relating to staff training and qualifications that are consistent with the Board's regulations
 1282 relating to staff training requirements and qualifications; (iv) requires all applicants for employment,
 1283 employees, applicants to serve as volunteers, and volunteers to undergo a background check in accordance
 1284 with § 22.1-289.039 and, if applicable, in accordance with the provisions of § 22.1-289.040; and (v) has
 1285 policies and procedures relating to emergency preparedness and response, child abuse prevention and
 1286 response, and internal incident reporting and investigation. If there is a conflict between any of the health and
 1287 safety requirements established by the national organization or any other standards, requirements, policies, or
 1288 procedures adopted by the out-of-school time program and the Board's regulations, the Board shall conduct
 1289 an internal review process and consult with the out-of-school time program provider to ensure substantial
 1290 compliance with the Board's regulations.

1291 C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day
 1292 programs that are exempt from licensure pursuant to subdivision B 1, 5, or 11, shall:

1293 1. File with the Superintendent annually and prior to beginning operation of a child day program a
 1294 statement indicating the intent to operate a child day program, identifying the specific provision of this
 1295 section relied upon for exemption from licensure, and certifying that the child day program has disclosed in
 1296 writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

1297 2. Report to the Superintendent all incidents involving serious physical injury to or death of children
 1298 attending the child day program. Reports of serious physical injuries, which shall include any physical
 1299 injuries that require an emergency referral to an offsite health care professional or treatment in a hospital,
 1300 shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the
 1301 death occurred; and

1302 3. Post in a visible location on the premises notice that the child day program is operating as a program
 1303 exempt from licensure with basic health and safety requirements but has no direct oversight by the
 1304 Department.

1305 D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day
 1306 programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, 7, or 11 shall:

1307 1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child
 1308 day program whenever children are present or at any other location in which children attending the child day
 1309 program are present;

1310 2. Maintain daily attendance records that document the arrival and departure of all children;

1311 3. Have an emergency preparedness plan in place;

1312 4. Comply with all applicable laws and regulations governing transportation of children; and

1313 5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

1314 E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to
 1315 subsection B to determine compliance with the provisions of this section only upon receipt of a complaint,
 1316 except as otherwise provided by law.

1317 F. ~~Family day homes~~ *Home-based child care providers* that are members of a licensed ~~family day home-~~
 1318 *based child care* system shall not be required to obtain a license from the Superintendent.

1319 **§ 22.1-289.035. Licensed child day centers, home-based child care, and home-based child care**
 1320 **systems; employment for compensation or use as volunteers of persons convicted of or found to have**
 1321 **committed certain offenses prohibited; national background check required; penalty.**

1322 A. No child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based child care~~
 1323 system licensed in accordance with the provisions of this chapter, child day center exempt from licensure
 1324 pursuant to § 22.1-289.031, registered ~~family day home~~ *home-based child care*, ~~family day home~~ *home-based*
 1325 *child care* approved by a ~~family day home-based child care~~ system, or child day center, ~~family day home~~
 1326 *home-based child care*, or child day program that enters into a contract with the Department or its agents or
 1327 designees to provide child care services funded by the Child Care and Development Block Grant shall hire
 1328 for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with,
 1329 in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in
 1330 § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the
 1331 Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers
 1332 shall undergo a background check in accordance with subsection B prior to employment or beginning to
 1333 serve as a volunteer and every five years thereafter. However, pending the results of all background check
 1334 components set forth in subsection B, an applicant for employment or an applicant to serve as a volunteer
 1335 may work in the child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based child~~
 1336 *care* system, provided that (a) the applicant has received qualifying results on a fingerprint-based background
 1337 check through the Central Criminal Records Exchange or the Federal Bureau of Investigation and (b) the
 1338 applicant is supervised at all times by a person who received a qualifying result on a background check
 1339 conducted in accordance with subsection B within the past five years.

1340 B. Any individual required to undergo a background check in accordance with subsection A shall:

1341 1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the
 1342 subject of pending charges for any offense within or outside the Commonwealth and whether he has been the
 1343 subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

1344 2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of
 1345 § 19.2-392.02;

1346 3. Authorize the child day center, ~~family day home~~ *home-based child care*, or ~~family day home-based~~
 1347 *child care* system described in subsection A to obtain a copy of the results of a search of the central registry
 1348 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

1349 4. 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 criminal history record
 1351 information check, a sex offender registry check, and a search of the child abuse and neglect registry or
 1352 equivalent registry from any state in which the individual has resided in the preceding five years.

1353 The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall
 1354 be forwarded by the Department or its designee or, in the case of a child day program operated by a local
 1355 government, may be forwarded by the local law-enforcement agency through the Central Criminal Records
 1356 Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record
 1357 information regarding such applicant. Upon receipt of an applicant's record or notification that no record
 1358 exists, the Central Criminal Records Exchange shall forward the information to the Department or its

1359 designee, and the Department or its designee shall report to the child day center or ~~family day home~~ *home-*
 1360 *based child care* whether the applicant is eligible to have responsibility for the safety and well-being of
 1361 children. In cases in which the record forwarded to the Department or its designee is lacking disposition data,
 1362 the Department or its designee shall conduct research in whatever state and local recordkeeping systems are
 1363 available in order to obtain complete data before reporting to the child day center, ~~family day home~~ *home-*
 1364 *based child care*, or ~~family day home~~ *home-based child care* system.

1365 C. The child day center, ~~family day home~~ *home-based child care*, or ~~family day home~~ *home-based child care*
 1366 system described in subsection A shall inform every individual required to undergo a background check
 1367 pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge
 1368 the accuracy and completeness of any such report and obtain a prompt resolution before a final determination
 1369 is made of the individual's eligibility to have responsibility for the safety and well-being of children.

1370 D. Any person making a materially false statement regarding the sworn statement or affirmation provided
 1371 pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

1372 E. Further dissemination of the background check information is prohibited (i) other than to the
 1373 Superintendent's representative or a federal or state authority or court as may be required to comply with an
 1374 express requirement of law for such further dissemination or (ii) except as provided in subsection J.

1375 F. A person who complies in good faith with the provisions of this section shall not be liable for any civil
 1376 damages for any act or omission in the performance of duties under this section unless the act or omission
 1377 was the result of gross negligence or willful misconduct.

1378 G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated
 1379 employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57,
 1380 or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following
 1381 the conviction, unless the person committed such offense while employed in a child day center or the object
 1382 of the offense was a minor.

1383 H. Fees charged for the processing and administration of background checks pursuant to this section shall
 1384 not exceed the actual cost to the state or the local law-enforcement agency of such processing and
 1385 administration.

1386 I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted
 1387 of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child
 1388 abuse or neglect within or outside of the Commonwealth shall notify the child day center, ~~family day home~~
 1389 *home-based child care*, or ~~family day home~~ *home-based child care* system described in subsection A of such
 1390 conviction or finding.

1391 J. Notwithstanding the provisions of subsection A, a background check shall not be required for any
 1392 individual who has completed a background check under the provisions of this section within the previous
 1393 five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such
 1394 background check indicated that the individual had not been convicted of any barrier crime as defined in
 1395 § 19.2-392.02 and was not the subject of a founded complaint of child abuse or neglect within or outside the
 1396 Commonwealth; and (iii) the individual is currently or has been, within the previous 180 days, employed by
 1397 or a volunteer at a child day center, ~~family day home~~ *home-based child care*, ~~family day home~~ *home-based child*
 1398 *care* system, or child day program described in subsection A. Except as otherwise provided in subsection A,
 1399 prior to hiring or allowing to volunteer any individual required to undergo a background check pursuant to
 1400 subsection A without the completion of a background check under the provisions of subsection B, the child
 1401 day center, ~~family day home~~ *home-based child care*, ~~family day home~~ *home-based child care* system, or child day
 1402 program shall, upon the individual's written consent, obtain written certification from the Department or its
 1403 designee that such individual satisfies all requirements set forth in this subsection and is eligible to serve as
 1404 an employee or volunteer. If the individual meets all requirements set forth in this subsection and is eligible
 1405 to serve as an employee or volunteer at the child day center, ~~family day home~~ *home-based child care*, ~~family~~
 1406 ~~day home~~ *home-based child care* system, or child day program, the written certification shall also state the next
 1407 date by which another background check for such person shall be completed in accordance with subsection B.
 1408 Such written certifications shall not reveal the nature of any disqualifying barrier crime or founded complaint
 1409 of child abuse or neglect or any other information about the individual.

1410 K. Notwithstanding the provisions of subsection E, the Virginia Council for Private Education (the
 1411 Council) or its authorized designee may review background check information for current employees of child
 1412 day centers accredited by the Council for the purposes of seeking or maintaining accreditation by the Council
 1413 as permitted pursuant to § 22.1-19.

1414 L. Notwithstanding the provisions of subsection E, the Department, upon receiving a written request for
 1415 such a written certification from an individual, shall provide written certification to an entity designated by
 1416 the Department that provides staffing for child day programs that such individual satisfies all requirements set
 1417 forth in this section and is eligible to serve as an employee, temporary employee, or volunteer in a child day
 1418 program. Each such written certification shall also state the date by which the individual is required to
 1419 complete a new background check in accordance with the periodic requirement for such background checks
 1420 that is established in subsection A. No such written certification shall reveal the nature of any disqualifying

1421 barrier crime committed by or founded complaint of child abuse or neglect against the individual. Any such
 1422 written certification may be shared among child day programs for the purpose of facilitating the creation and
 1423 maintenance of a child day program substitute staff pool system.

1424 **§ 22.1-289.036. Background check upon application for licensure, registration, or approval as child**
 1425 **day center, home-based child care, or home-based child care system; penalty.**

1426 A. Every (i) applicant for licensure as a child day center, ~~family day home~~ *home-based child care*, or
 1427 ~~family day~~ *a home-based child care* system, registration as a ~~family day home~~ *home-based child care*, or
 1428 approval as a ~~family day home~~ *home-based child care* by a ~~family day~~ *home-based child care* system; (ii)
 1429 agent of an applicant for licensure as a child day center, ~~family day home~~ *home-based child care*, or ~~family~~
 1430 ~~day~~ *a home-based child care* system, registration as a ~~family day home~~ *home-based child care*, or approval as
 1431 a ~~family day home~~ *home-based child care* by a ~~family day~~ *home-based child care* system at the time of
 1432 application who is or will be involved in the day-to-day operations of the child day center, ~~family day home~~
 1433 *home-based child care*, or ~~family day~~ *home-based child care* system or who is or will be alone with, in
 1434 control of, or supervising one or more of the children; and (iii) adult living in such child day center or ~~family~~
 1435 ~~day home~~ *the home in which such home-based child care is provided* shall undergo a background check in
 1436 accordance with subsection B prior to issuance of a license as a child day center, ~~family day home~~ *home-*
 1437 *based child care*, or ~~family day~~ *a home-based child care* system, registration as a ~~family day home~~ *home-*
 1438 *based child care*, or approval as a ~~family day home~~ *home-based child care* by a ~~family day~~ *home-based child*
 1439 *care* system and every five years thereafter.

1440 B. Every person required to undergo a background check pursuant to subsection A shall:

1441 1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the
 1442 subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or
 1443 not he has been the subject of a founded complaint of child abuse or neglect within or outside the
 1444 Commonwealth;

1445 2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of
 1446 § 19.2-392.02;

1447 3. Authorize the child day center, ~~family day home~~ *home-based child care*, or ~~family day~~ *home-based*
 1448 *child care* system specified in subsection A to obtain a copy of the results of a search of the central registry
 1449 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect against him; and

1450 4. Authorize the child day center, ~~family day home~~ *home-based child care*, or ~~family day~~ *home-based*
 1451 *child care* system described in subsection A to obtain a copy of the results of a criminal history record
 1452 information check, a sex offender registry check, and a search of the child abuse and neglect registry or
 1453 equivalent registry from any state in which the individual has resided in the preceding five years.

1454 Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded
 1455 by the Department or its designee or, in the case of a child day program operated by a local government, may
 1456 be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the
 1457 Federal Bureau of Investigation for the purpose of obtaining national criminal history record information
 1458 regarding the individual. Upon receipt of an individual's record or notification that no record exists, the
 1459 Central Criminal Records Exchange shall forward the information to the Department or its designee. The
 1460 Department or its designee shall report to the child day center, ~~family day home~~ *home-based child care*, or
 1461 ~~family day~~ *home-based child care* system described in subsection A as to whether the individual is eligible to
 1462 have responsibility for the safety and well-being of children. In cases in which the record forwarded to the
 1463 Department or its designee is lacking disposition data, the Department or its designee shall conduct research
 1464 in whatever state and local recordkeeping systems are available in order to obtain complete data.

1465 C. If any person specified in subsection A required to have a background check (i) has been convicted of
 1466 any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or
 1467 neglect within or outside the Commonwealth, and such person has not been granted a waiver by the
 1468 Superintendent pursuant to § 22.1-289.038, no license as a child day center, ~~family day home~~ *home-based*
 1469 *child care*, or ~~family day~~ *home-based child care* system or registration as a ~~family day home~~ *home-based*
 1470 *child care* shall be granted by the Superintendent and no approval as a ~~family day home~~ *home-based child*
 1471 *care* shall be granted by the ~~family day~~ *home-based child care* system.

1472 D. Information from a search of the central registry maintained pursuant to § 63.2-1515 and any child
 1473 abuse and neglect registry or equivalent registry maintained by any other state in which the applicant, agent,
 1474 or adult has resided in the preceding five years, authorized in accordance with subdivision B 3, shall be
 1475 obtained prior to issuance of a license as a child day center, ~~family day home~~ *home-based child care*, or
 1476 ~~family day~~ *a home-based child care* system, registration as a ~~family day home~~ *home-based child care*, or
 1477 approval as a ~~family day home~~ *home-based child care* by a ~~family day~~ *home-based child care* system.

1478 E. No person specified in subsection A shall be involved in the day-to-day operations of the child day
 1479 center, ~~family day home~~ *home-based child care*, or ~~family day~~ *home-based child care* system, or shall be
 1480 alone with, in control of, or supervising one or more children, without first having completed any required
 1481 background check pursuant to subsection B.

1482 F. Any person making a materially false statement regarding the sworn statement or affirmation provided

1483 pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

1484 G. If an individual is denied licensure, registration, or approval because of information from the central
1485 registry or any child abuse and neglect registry or equivalent registry maintained by any other state, or
1486 convictions appearing on his criminal history record, the Superintendent shall provide a copy of the
1487 information obtained from the central registry, any child abuse and neglect registry or equivalent registry
1488 maintained by any other state, or the Central Criminal Records Exchange to the individual.

1489 H. Further dissemination of the background check information is prohibited other than to the
1490 Superintendent's representative or a federal or state authority or court as may be required to comply with an
1491 express requirement of law for such further dissemination.

1492 I. Fees charged for the processing and administration of background checks pursuant to this section shall
1493 not exceed the actual cost to the state or the local law-enforcement agency of such processing and
1494 administration.

1495 J. For the purposes of this section, "agent" means a person who is authorized to act on behalf of the
1496 applicant or licensee.

1497 **§ 22.1-289.037. Revocation or denial of renewal based on background checks; failure to obtain**
1498 **background check.**

1499 A. The Superintendent may revoke or deny renewal of a license or registration of a child day program or
1500 ~~family day home-based child care system~~, and a ~~family day home-based child care system~~ may revoke the
1501 approval of a ~~family day home-based child care~~, if the child day program, ~~family day home-based child~~
1502 ~~care system~~, or approved ~~family day home-based child care~~ has knowledge that a person specified in
1503 § 22.1-289.035 or 22.1-289.036 required to have a background check (i) has been convicted of any barrier
1504 crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within
1505 or outside the Commonwealth, and such person has not been granted a waiver by the Superintendent pursuant
1506 to § 22.1-289.038 or is not subject to the exceptions in subsection G of § 22.1-289.035, and the agency or
1507 home refuses to separate such person from employment or service or allows the household member to
1508 continue to reside in the home.

1509 B. Failure to obtain background checks pursuant to §§ 22.1-289.035 and 22.1-289.036 shall be grounds
1510 for denial, revocation, or termination of a license, registration, or approval or any contract with the
1511 Department or its agents or designees or a local department of social services to provide child care services to
1512 clients of the Department or its agents or designees or the local department of social services. No violation
1513 shall occur if the ~~family day home-based child care system~~, ~~family day home-based child care~~, or child
1514 day center has applied for the background check timely and it has not been obtained due to administrative
1515 delay. The provisions of this section shall be enforced by the Department.

1516 **§ 22.1-289.038. Child day programs and home-based child care systems; criminal conviction and**
1517 **waiver.**

1518 A. Any person who seeks to operate, volunteer, or work at a child day program or ~~family day home-based~~
1519 ~~child care system~~ and who is disqualified because of a criminal conviction or a criminal conviction in the
1520 background check of any other adult living in a ~~family day home~~ *the home in which home-based child care*
1521 regulated by the Department *is provided*, pursuant to § 22.1-289.035, 22.1-289.036, or 22.1-289.039, may
1522 apply in writing for a waiver from the Superintendent. The Superintendent may grant a waiver if the
1523 Superintendent determines that (i) the person is of good moral character and reputation and (ii) the waiver
1524 would not adversely affect the safety and well-being of children in the person's care. The Superintendent shall
1525 not grant a waiver to any person who has been convicted of any barrier crime as defined in § 19.2-392.02.
1526 However, the Superintendent may grant a waiver to a ~~family day home-based child care~~ licensed or
1527 registered by the Department if any other adult living in the home of the applicant or provider has been
1528 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially
1529 similar offense under the laws of another jurisdiction, provided that (a) five years have elapsed following the
1530 conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an
1531 assessment of the safety of children placed in the home and (2) a determination that the offender is now a
1532 person of good moral character and reputation. The waiver shall not be granted if the adult living in the home
1533 is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both
1534 §§ 18.2-57 and 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction. Any
1535 waiver granted under this section shall be available for inspection by the public. The child day program or
1536 ~~family day home-based child care system~~ shall notify in writing every parent and guardian of the children in
1537 its care of any waiver granted for its operators, employees, or volunteers.

1538 B. The Board shall adopt regulations to implement the provisions of this section.

1539 **§ 22.1-289.040. Child day centers and home-based child care receiving federal, state, or local child**
1540 **care funds; eligibility requirements.**

1541 A. Whenever any child day center or ~~family day home-based child care~~ that has not met the
1542 requirements of §§ 22.1-289.035, 22.1-289.036, and 22.1-289.039 applies to enter into a contract with the
1543 Department or its agents or designees to provide child care services to clients of the Department or its agents
1544 or designees, the Department or its agents or designees shall require a background check, at the time of

1545 application to enter into a contract and every five years thereafter, of (i) the applicant; any agents involved in
 1546 the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the
 1547 children; and any other adult living in a ~~family day~~ home in which home-based child care is provided
 1548 pursuant to § 22.1-289.036; and (ii) all applicants for employment, employees, applicants to serve as
 1549 volunteers, and volunteers pursuant to § 22.1-289.035. The child day center or ~~family day home~~ home-based
 1550 child care shall not be permitted to enter into a contract with the Department or its agents or designees for
 1551 child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved
 1552 in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any
 1553 other adult living in a ~~family day~~ home in which home-based child care is provided (i) has been convicted of
 1554 any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or
 1555 neglect within or outside the Commonwealth. Further dissemination of the information provided to the
 1556 facility, beyond dissemination to the Department or its agents or designees is prohibited.

1557 B. Every child day center or ~~family day home~~ home-based child care provider that enters into a contract
 1558 with the Department or its agents or designees to provide child care services to clients of the Department or
 1559 its agents or designees that is funded, in whole or in part, by the Child Care and Development Block Grant,
 1560 shall comply with all requirements established by federal law and regulations.

1561 **§ 22.1-289.041. Sex offender or child abuser prohibited from operating or residing in home in which**
 1562 **home-based child care is provided; penalty.**

1563 It shall be unlawful for any person to operate a ~~family day home~~ home-based child care if he, or if he
 1564 knows that any other person who resides in, is employed by, or volunteers in the home, has been convicted of
 1565 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,
 1566 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
 1567 of any offense that requires registration on the Sex Offender and Crimes Against Minors Registry pursuant to
 1568 § 9.1-902, or is the subject of a founded complaint of child abuse or neglect within or outside the
 1569 Commonwealth. A violation of this section is punishable as a Class 1 misdemeanor.

1570 **§ 22.1-289.042. Establishment of toll-free telephone line for complaints; investigation on receipt of**
 1571 **complaints.**

1572 With such funds as are appropriated for this purpose, the Superintendent shall establish a toll-free
 1573 telephone line to respond to complaints regarding operations of child day programs or ~~family day home-based~~
 1574 child care systems. Upon receipt of a complaint concerning the operation of a child day program or ~~family~~
 1575 ~~day home-based child care~~ system, regardless of whether the program is subject to licensure, the
 1576 Superintendent shall, for good cause shown, cause an investigation to be made, including on-site visits as he
 1577 deems necessary, of the activities, services, records, and facilities. The child day program or ~~family day~~
 1578 home-based child care system shall afford the Superintendent reasonable opportunity to inspect all of the
 1579 operator's activities, services, records, and facilities and to interview its agents and employees and any child
 1580 within its control. Whenever a child day program or ~~family day home-based child care~~ system subject to
 1581 inspection under this section is determined by the Superintendent to be in noncompliance with the provisions
 1582 of this chapter or with regulations adopted pursuant to this chapter, the Superintendent shall give reasonable
 1583 notice to the child day program or ~~family day home-based child care~~ system of the nature of its
 1584 noncompliance and may thereafter take appropriate action as provided by law, including a suit to enjoin the
 1585 operation of the child day program or ~~family day home-based child care~~ system.

1586 **§ 22.1-289.043. Confidentiality of complainant's identity.**

1587 Whenever the Department conducts inspections and investigations in response to complaints received
 1588 from the public, the identity of the complainant and the identity of any child who is the subject of the
 1589 complaint, or identified therein, shall be confidential and shall not be open to inspection by members of the
 1590 public. Identities of the complainant and child who is the subject of the complaint shall be revealed only if a
 1591 court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from
 1592 disclosing to the child day program or ~~family day home-based child care~~ system the nature of the complaint
 1593 or the identity of the child who is the subject of the complaint. Nothing contained herein shall prevent the
 1594 Department or its employees from making reports under Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. If the
 1595 Department intends to rely, in whole or in part, on any statements made by the complainant at any
 1596 administrative hearing brought against child day program or ~~family day home-based child care~~ system, the
 1597 Department shall disclose the identity of the complainant to the child day program or ~~family day home-based~~
 1598 child care system a reasonable time in advance of such hearing.

1599 **§ 22.1-289.044. Retaliation or discrimination against complainants.**

1600 No child day program or ~~family day home-based child care~~ system shall retaliate or discriminate in any
 1601 manner against any person who (i) in good faith complains or provides information to, or otherwise
 1602 cooperates with, the Department or any other agency of government or any person or entity operating under
 1603 contract with an agency of government having responsibility for protecting the rights of children in child day
 1604 programs and ~~family day system~~ home-based child care systems, (ii) attempts to assert any right protected by
 1605 state or federal law, or (iii) assists any person in asserting such right.

1606 **§ 22.1-289.045. Retaliation against reports of child abuse or neglect.**

1607 No child day program or ~~family day~~ *home-based child care* system shall retaliate in any manner against
 1608 any person who in good faith reports child abuse or neglect pursuant to Chapter 15 (§ 63.2-1500 et seq.) of
 1609 Title 63.2.

1610 **§ 22.1-289.046. Regulations for child day programs and home-based child care systems.**

1611 A. The Board shall adopt regulations for the activities, services, and facilities to be employed by persons
 1612 and agencies required to be licensed under this chapter, ~~which~~ *that* shall be designed to ensure that such
 1613 activities, services, and facilities are conducive to the welfare of the children under the control of such
 1614 persons or agencies.

1615 Such regulations shall be developed in consultation with representatives of the affected entities and shall
 1616 include matters relating to the sex, age, and number of children and other persons to be maintained or cared
 1617 for, as the case may be, and to the buildings and premises to be used, and reasonable standards for the
 1618 activities, services and facilities to be employed. Such limitations and standards shall be specified in each
 1619 license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or
 1620 doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or
 1621 certification agency.

1622 Such regulations governing child day programs providing care for school-age children at a location that is
 1623 currently approved by the Department or recognized as a private school by the Board for school occupancy
 1624 and that houses a public or private school during the school year shall not (i) prohibit school-age children
 1625 from using outdoor play equipment and areas approved for use by students of the school during school hours
 1626 or (ii) in the case of public schools, require inspection or approval of the building, vehicles used to transport
 1627 children attending the child day program that are owned by the school, or meals served to such children that
 1628 are prepared by the school.

1629 Such regulations governing orientation and training of child day program staff shall provide that parents
 1630 or other persons who participate in a cooperative preschool center on behalf of a child attending such
 1631 cooperative preschool center, including such parents and persons who are counted for the purpose of
 1632 determining staff-to-child ratios, shall be exempt from orientation and training requirements applicable to
 1633 staff of child day programs; however, such regulations may require such parents and persons to complete up
 1634 to four hours of training per year. This orientation and training exemption shall not apply to any parent or
 1635 other person who participates in a cooperative preschool center that has entered into a contract to provide
 1636 child care services funded by the Child Care and Development Block Grant.

1637 B. The Board shall adopt or amend regulations, policies, and procedures related to child day care in
 1638 collaboration with the Virginia Recreation and Park Society. No regulation adopted by the Board shall
 1639 prohibit a child day center from hiring an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et
 1640 seq.) of Chapter 1 of Title 9.1, to provide protection for children placed in the care of the child day center or
 1641 employees of the center. The Board shall adopt or amend regulations related to therapeutic recreation
 1642 programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral
 1643 Health and Developmental Services.

1644 **§ 22.1-289.049. Regulated child day programs to require proof of child identity and age; report to
 1645 law-enforcement agencies.**

1646 A. Upon enrollment of a child in a regulated child day program, such child day program shall require
 1647 information from the person enrolling the child regarding previous child day care and schools attended by the
 1648 child. The regulated child day program shall also require that the person enrolling the child present the
 1649 regulated child day program with the proof of the child's identity and age. The proof of identity, if reproduced
 1650 or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of
 1651 retention. The procedures for the disposal, physical destruction, or other disposition of the proof of identity
 1652 containing social security numbers shall include all reasonable steps to destroy such documents by (i)
 1653 shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them
 1654 unreadable or indecipherable by any means.

1655 B. For purposes of this section:

1656 "Proof of identity" means a certified copy of a birth certificate or other reliable proof of the child's identity
 1657 and age.

1658 "Regulated child day program" is one in which a person or organization has agreed to assume
 1659 responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a
 1660 24-hour period that is licensed pursuant to § 22.1-289.011, voluntarily registered pursuant to § 22.1-289.015,
 1661 certified as a preschool or nursery school program pursuant to § 22.1-289.032, exempted from licensure as a
 1662 child day center operated by a religious institution pursuant to § 22.1-289.031, or approved as a ~~family day~~
 1663 ~~home~~ *home-based child care* by a licensed ~~family day~~ *home-based child care* system.

1664 C. If the parent, guardian, or other person enrolling the child in a regulated child day program for longer
 1665 than two consecutive days or other pattern of regular attendance does not provide the information required by
 1666 subsection A within seven business days of initial attendance, such child day program shall immediately
 1667 notify the local law-enforcement agency in its jurisdiction of such failure to provide the requested
 1668 information.

1669 D. Upon receiving notification of such failure to provide the information required by subsection A, the
 1670 law-enforcement agency shall, if available information warrants, immediately submit an inquiry to the
 1671 Missing Children Information Clearinghouse and, with the assistance of the local department of social
 1672 services, if available information warrants, conduct the appropriate investigation to determine whether the
 1673 child is missing.

1674 E. The Board shall adopt regulations to implement the provisions of this section.

1675 **§ 22.1-289.050. Insurance notice requirements for home-based child care; civil penalty.**

1676 A. Any person who operates a ~~family day home~~ *home-based child care* approved by a licensed ~~family day~~
 1677 *home-based child care* system, a licensed ~~family day home~~ *home-based child care*, or a voluntarily registered
 1678 ~~family day home~~ *home-based child care* shall furnish a written notice to the parent or guardian of each child
 1679 under the care of the ~~family day home~~ *home-based child care*, which states whether there is liability
 1680 insurance in force to cover the operation of the ~~family day home~~ *home-based child care*, provided that no
 1681 person under this section shall state that liability insurance is in place to cover the operation of the ~~family day~~
 1682 ~~home~~ *home-based child care*, unless there is a minimum amount of coverage as established by the
 1683 Department.

1684 B. Each parent or guardian shall acknowledge, in writing, receipt of such notice. In the event there is no
 1685 longer insurance coverage, the person operating the ~~family day home~~ *home-based child care* shall (i) notify
 1686 each parent or guardian within 10 business days after the effective date of the change and (ii) obtain written
 1687 acknowledgment of such notice. A copy of an acknowledgment required under this section shall be
 1688 maintained on file at the ~~family day home~~ *in which home-based child care is provided* at all times while the
 1689 child attends the ~~family day home~~ *home-based child care* and for 12 months after the child's last date of
 1690 attendance.

1691 C. Any person who fails to give any notice required under this section shall be subject to a civil penalty of
 1692 up to \$500 for each such failure.

1693 **§ 22.1-289.055. Public funds to be withheld for serious or persistent violations.**

1694 The Board may adopt policies, as permitted by state and federal law, to restrict the eligibility of a child
 1695 day program or ~~family day home-based child care~~ system to receive or continue to receive funds when such
 1696 agency is found to be in serious or persistent violation of regulations.

1697 **§ 22.1-289.056. Storage of firearms in certain homes in which home-based child care is provided.**

1698 During hours of operation, all firearms in a ~~family day home~~ *in which home-based child care* licensed
 1699 pursuant to § 22.1-289.011 or voluntarily registered pursuant to § 22.1-289.011 *is provided* or in a ~~family day~~
 1700 ~~home~~ *in which home-based child care* approved by a ~~family day home-based child care~~ system *is provided*
 1701 shall be stored unloaded in a locked container, compartment, or cabinet, and all ammunition shall be stored in
 1702 a separate locked container, compartment, or cabinet. The key or combination to such locked containers,
 1703 compartments, or cabinets shall be inaccessible to all children in the home.

1704 **§ 22.1-289.059. Possession and administration of an appropriate weight-based dosage of**
 1705 **epinephrine by employees.**

1706 A. The Board shall amend its regulations to require each child day center to implement policies for the
 1707 possession and administration of epinephrine in every such center to be administered by any nurse at the
 1708 center, employee at the center, or employee of a local health department who is authorized by a prescriber
 1709 and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction.
 1710 Such policies shall require that at least one school nurse, employee at the center, or employee of a local health
 1711 department who is authorized by a prescriber and trained in the administration of epinephrine has the means
 1712 to access at all times during regular facility hours any such appropriate weight-based dosage of epinephrine
 1713 that is stored in a locked or otherwise generally inaccessible container or area.

1714 B. The Board shall amend its regulations to require each ~~family day home~~ *home-based child care* provider
 1715 or at least one other caregiver employed by such provider in the ~~family day home~~ *home-based child care* to
 1716 be trained in the administration of epinephrine and to notify the parents of each child who receives care in
 1717 such ~~family day home~~ *home-based child care* whether the provider stores an appropriate weight-based dosage
 1718 of epinephrine in the residence or home in which the ~~family day home~~ *home-based child care* operates.

1719 **§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records**
 1720 **checks.**

1721 A. As a condition of employment, the governing boards or administrators of private elementary or
 1722 secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts
 1723 employment, whether full time or part time or permanent or temporary, to submit to fingerprinting and to
 1724 provide personal descriptive information to be forwarded along with the applicant's fingerprints through the
 1725 Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining
 1726 criminal history record information regarding such applicant.

1727 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
 1728 record exists, shall report to the governing board or administrator, or to a private organization coordinating
 1729 such records on behalf of such governing board or administrator pursuant to a written agreement with the
 1730 Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment

1731 based on whether or not the applicant has ever been convicted of any barrier crime as defined in
1732 § 19.2-392.02.

1733 B. The Central Criminal Records Exchange shall not disclose information to such governing board,
1734 administrator, or private organization coordinating such records regarding charges or convictions of any
1735 crimes. If any applicant is denied employment because of information appearing on the criminal history
1736 record and the applicant disputes the information upon which the denial was based, the Central Criminal
1737 Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the
1738 criminal history record from the Federal Bureau of Investigation. The information provided to the governing
1739 board, administrator, or private organization coordinating such records shall not be disseminated except as
1740 provided in this section. A governing board or administrator employing or previously employing a temporary
1741 teacher or a private organization coordinating such records on behalf of such governing board or
1742 administrator pursuant to a written agreement with the Department of State Police may disseminate, at the
1743 written request of such temporary teacher, whether such teacher meets the criteria or does not meet the
1744 criteria for employment pursuant to subsection A to the governing board or administrator of another
1745 accredited private elementary or secondary school in which such teacher has accepted employment. Such
1746 governing board, administrator, or private organization transferring criminal records information pursuant to
1747 this section shall be immune from civil liability for any official act, decision, or omission done or made in the
1748 performance of such transfer, when such acts or omissions are taken in good faith and are not the result of
1749 gross negligence or willful misconduct.

1750 Fees charged for the processing and administration of background checks pursuant to this section shall not
1751 exceed the actual cost to the state of such processing and administration.

1752 C. The governing board or administrator of a private elementary or secondary school may disclose
1753 information in records received pursuant to subsection A to the Virginia Council for Private Education (the
1754 Council) or its authorized designee for purposes of seeking or maintaining accreditation by the Council as
1755 permitted pursuant to § 22.1-19.

1756 D. The governing board or administrator of a private elementary or secondary school that is accredited
1757 pursuant to § 22.1-19 that operates a child day program or ~~family day~~ *home-based child care* system
1758 regulated by the Department pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) shall accept evidence of a
1759 background check in accordance with § 22.1-289.035 for individuals who are required to undergo a
1760 background check in accordance with that section as a condition of employment in lieu of the background
1761 check required by subsection A.

1762 E. The governing boards or administrators of private elementary and secondary schools that are accredited
1763 pursuant to § 22.1-19 shall adopt and implement policies prohibiting any individual who is a governing board
1764 member, administrator, employee, contractor, or agent of a private elementary or secondary school to assist a
1765 governing board member, administrator, employee, contractor, or agent of such private elementary or
1766 secondary school in obtaining a new job if such individual knows or has probable cause to believe that the
1767 individual seeking new employment engaged in sexual misconduct regarding a minor or student in violation
1768 of law.

1769 F. For purposes of this section, "governing board" or "administrator" means the unit or board or person
1770 designated to supervise operations of a system of private schools or a private school accredited pursuant to
1771 § 22.1-19.

1772 Nothing in this section or § 19.2-389 shall be construed to require any private or religious school that is
1773 not so accredited to comply with this section.

1774 **§ 32.1-46. Immunization of patients against certain diseases.**

1775 A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall
1776 cause such child to be immunized in accordance with the Immunization Schedule developed and published by
1777 the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices
1778 (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians
1779 (AAFP). The required immunizations for attendance at a public or private elementary, middle, or secondary
1780 school, a child care center, a nursery school, ~~family day care~~ *home-based child care*, or a
1781 developmental center shall be those set forth in the State Board of Health Regulations for the Immunization
1782 of School Children. The Board's regulations shall at a minimum require:

1783 1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).

1784 2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be
1785 administered on or after the fourth birthday.

1786 3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered
1787 on or after the fourth birthday.

1788 4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be
1789 administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the
1790 seventh grade.

1791 5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the
1792 manufacturer, for children up to 60 months of age.

1793 6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be
1794 administered at age 12 months or older.

1795 7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.

1796 8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.

1797 9. Two properly spaced doses of varicella vaccine. The first dose shall be administered at age 12 months
1798 or older.

1799 10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV).
1800 One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three
1801 dose primary series consisted of a combination of OPV and IPV.

1802 11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV)
1803 vaccine for children up to 60 months of age.

1804 12. Two doses of properly spaced human papillomavirus (HPV) vaccine. The first dose shall be
1805 administered before the child enters the seventh grade.

1806 13. Two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for children
1807 up to eight months of age.

1808 14. Two properly spaced doses of hepatitis A vaccine (HAV). The first dose shall be administered at age
1809 12 months or older.

1810 15. Two properly spaced doses of meningococcal conjugate vaccine (MenACWY). The first dose shall be
1811 administered prior to entry to seventh grade. The second dose shall be administered prior to entry to twelfth
1812 grade.

1813 The parent, guardian or person standing in loco parentis may have such child immunized by a physician, a
1814 physician assistant, an advanced practice registered nurse, a registered nurse, or a licensed practical nurse, or
1815 a pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate
1816 local health department, which shall administer the vaccines required by the State Board of Health
1817 Regulations for the Immunization of School Children without charge to the parent of or person standing in
1818 loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is
1819 eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.
1820 (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the
1821 Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all
1822 cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the
1823 Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for
1824 all allowable costs associated with the provision of the vaccine. For the purposes of this section, the
1825 Department shall be deemed a participating provider with a managed care health insurance plan as defined in
1826 § 32.1-137.1.

1827 B. A physician, a physician assistant, an advanced practice registered nurse, a registered nurse, a licensed
1828 practical nurse, a pharmacist, or a local health department administering a vaccine required by this section
1829 shall provide to the person who presents the child for immunizations a certificate that shall state the diseases
1830 for which the child has been immunized, the numbers of doses given, the dates when administered and any
1831 further immunizations indicated.

1832 C. The vaccines required by this section shall meet the standards prescribed in, and be administered in
1833 accordance with, the State Board of Health Regulations for the Immunization of School Children. The State
1834 Board of Health shall amend the State Board of Health Regulations for the Immunization of School Children
1835 as necessary from time to time to maintain conformity with evidence-based, routinely recommended
1836 vaccinations for children. The adoption of such regulations shall be exempt from the requirements of Article
1837 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). However, the Department shall
1838 (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior
1839 to the Board's adoption of the regulations.

1840 D. The provisions of this section shall not apply if:

1841 1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing
1842 agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been
1843 declared by the Board;

1844 2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia,
1845 a licensed advanced practice registered nurse, or a local health department that states that the physical
1846 condition of the child is such that the administration of one or more of the required immunizing agents would
1847 be detrimental to the health of the child; or

1848 3. Because the human papillomavirus is not communicable in a school setting, a parent or guardian, at the
1849 parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to receive the human
1850 papillomavirus vaccine, after having reviewed materials describing the link between the human
1851 papillomavirus and cervical cancer approved for such use by the Board.

1852 E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate
1853 immunizations, any physician, physician assistant, advanced practice registered nurse, licensed institutional
1854 health care provider, or local or district health department, the Virginia Immunization Information System,

1855 and the Department of Health may share immunization and patient locator information without parental
 1856 authorization, including, but not limited to, the month, day, and year of each administered immunization; the
 1857 patient's name, address, telephone number, birth date, and social security number; and the parents' names.
 1858 The immunization information; the patient's name, address, telephone number, birth date, and social security
 1859 number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this
 1860 subsection.

1861 F. The State Board of Health shall review this section annually and make recommendations for revision
 1862 by September 1 to the Governor, the General Assembly, and the Joint Commission on Health Care.

1863 **§ 63.2-603. Eligibility for TANF; childhood immunizations.**

1864 An applicant for TANF shall provide verification that all eligible children not enrolled in school, a
 1865 licensed ~~family day home~~ *home-based child care* as defined in § 22.1-289.02, or a licensed child day center
 1866 as defined in § 22.1-289.02, have received immunizations in accordance with § 32.1-46. However, if an
 1867 eligible child has not received immunizations in accordance with § 32.1-46, verification shall be provided at
 1868 the next scheduled redetermination of eligibility for TANF after initial eligibility is granted that the child has
 1869 received at least one dose of each of the immunizations required by § 32.1-46 as appropriate for the child's
 1870 age and that the child's physician or the local health department has developed a plan for completing the
 1871 immunizations. Verification of compliance with the plan for completing the immunizations shall be presented
 1872 at subsequent redeterminations of eligibility for TANF.

1873 If necessary, the local department shall provide assistance to the TANF recipient in obtaining verification
 1874 from immunization providers. No sanction may be imposed until the reason for the failure to comply with the
 1875 immunization requirement has been identified and any barriers to accessing immunizations have been
 1876 removed.

1877 Failure by the recipient to provide the required verification of immunizations shall result in a reduction in
 1878 the amount of monthly assistance received from the TANF program until the required verification is
 1879 provided. The reduction shall be \$50 for the first child and \$25 for each additional child for whom
 1880 verification is not provided.

1881 Any person who becomes ineligible for TANF payments as a result of this provision shall nonetheless be
 1882 considered a TANF recipient for all other purposes.

1883 **§ 63.2-1506. Family assessments by local departments.**

1884 A. A family assessment requires the collection of information necessary to determine:

- 1885 1. The immediate safety needs of the child;
- 1886 2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
- 1887 3. Risk of future harm to the child;
- 1888 4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance
 1889 abuse counseling or treatment prior to the child's birth; and
- 1890 5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the
 1891 family is unable or unwilling to participate in services.

1892 B. When a local department has been designated as a child-protective services differential response
 1893 system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by
 1894 conducting a family assessment, the local department shall:

1895 1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the
 1896 factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to
 1897 § 16.1-241.3;

1898 2. Obtain and consider the results of a search of the child abuse and neglect registry for any individual
 1899 who is the subject of a family assessment. The local board shall determine whether the individual has resided
 1900 in another state within at least the preceding five years, and, if he has resided in another state, the local board
 1901 shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state.
 1902 The local board also may obtain and consider, in accordance with regulations of the Board, statewide
 1903 criminal history record information from the Central Criminal Records Exchange for any individual who is
 1904 the subject of a family assessment;

1905 3. Immediately contact the subject of the report and the family of the child alleged to have been abused or
 1906 neglected and give each a written and an oral explanation of the family assessment procedure. The family
 1907 assessment shall be in writing and shall be completed in accordance with Board regulation;

1908 4. Complete the family assessment within 60 days and transmit a report to such effect to the Department
 1909 and to the person who is the subject of the family assessment;

1910 5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to
 1911 the child and his family. Families have the option of declining the services offered as a result of the family
 1912 assessment. If the family declines the services, the case shall be closed unless the local department
 1913 determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no
 1914 instance shall a case be redetermined as an investigation solely because the family declines services;

1915 6. Petition the court for services deemed necessary;

1916 7. Make no disposition of founded or unfounded for reports in which a family assessment is completed.

1917 Reports in which a family assessment is completed shall not be entered into the central registry contained in
1918 § 63.2-1515;

1919 8. Commence an immediate investigation, if at any time during the completion of the family assessment,
1920 the local department determines that an investigation is required; and

1921 9. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the
1922 family assessment has not been completed and a report has not been transmitted pursuant to subdivision 4;
1923 (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded
1924 report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has
1925 legal custody of the child and provides to the local department any records or other information necessary to
1926 verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the
1927 child's other parent or guardian or other person responsible for the care of the child that no court order has
1928 been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's
1929 location with the child, the child's other parent or guardian or other person responsible for the care of the
1930 child, or any member of the household in which the child is located; and (v) disclosure of the child's location
1931 to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or
1932 any other person responsible for the care of the child.

1933 C. When a local department has been designated as a child-protective services differential response
1934 agency by the Department, the local department may investigate any report of child abuse or neglect, but the
1935 following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii)
1936 abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left
1937 alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has
1938 been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant
1939 to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a
1940 caretaker at a state-licensed child day center, *a* religiously exempt child day center, licensed, registered or
1941 approved ~~family day home~~ *home-based child care*, *a* private or public school, *a* hospital, or any institution. If
1942 a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local
1943 department shall (a) conduct a family assessment, unless an investigation is required pursuant to this
1944 subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan
1945 of safe care in accordance with federal law, regardless of whether the local department makes a finding of
1946 abuse or neglect.

1947 D. Any individual who is the subject of a family assessment conducted under this section shall notify the
1948 local department prior to changing his place of residence and provide the local department with the address of
1949 his new residence.

1950 **§ 63.2-1515. Central registry; disclosure of information.**

1951 The central registry shall contain such information as shall be prescribed by Board regulation; however,
1952 when the founded case of abuse or neglect does not name the parents or guardians of the child as the abuser
1953 or neglector, and the abuse or neglect occurred in a licensed or unlicensed child day center as defined in
1954 § 22.1-289.02; ~~a~~ licensed, registered, or approved ~~family day home~~ *home-based child care* as defined in
1955 § 22.1-289.02; *a* private or public school; or a children's residential facility, the child's name shall not be
1956 entered on the registry without consultation with and permission of the parents or guardians. If a child's name
1957 currently appears on the registry without consultation with and permission of the parents or guardians for a
1958 founded case of abuse and neglect that does not name the parents or guardians of the child as the abuser or
1959 neglector, such parents or guardians may have the child's name removed by written request to the
1960 Department. The information contained in the central registry shall not be open to inspection by the public.
1961 However, appropriate disclosure may be made in accordance with Board regulations.

1962 The Department shall respond to requests for a search of the central registry made by (i) local
1963 departments, (ii) local school boards, and (iii) governing boards or administrators of private schools
1964 accredited pursuant to § 22.1-19 regarding applicants for employment, pursuant to § 22.1-296.4, in cases
1965 where there is no match within the central registry within 10 business days of receipt of such requests. In
1966 cases where there is a match within the central registry regarding applicants for employment, the Department
1967 shall respond to requests made by local departments, local school boards, and governing boards or
1968 administrators within 30 business days of receipt of such requests. The request and response may be sent
1969 electronically or by first-class mail or facsimile transmission.

1970 The Department shall disclose information in the central registry to the Chairmen of the House and Senate
1971 Committees for Courts of Justice for the purpose of determining if any person being considered for election
1972 to any judgeship has been the subject of any founded complaint of child abuse or neglect.

1973 Any central registry check of a person who has applied to be a volunteer with a (a) Virginia affiliate of
1974 Big Brothers/Big Sisters of America, (b) Virginia affiliate of Compeer, (c) Virginia affiliate of Childhelp
1975 USA, (d) volunteer fire company or volunteer emergency medical services agency, or (e) court-appointed
1976 special advocate program pursuant to § 9.1-153 shall be conducted at no charge.

1977 **§ 63.2-1527. Board oversight duties; Out-of-Family Investigations Advisory Committee.**

1978 A. The Board shall be responsible for establishing standards for out-of-family investigations and for the

1979 implementation of the family assessment track of the differential response system.

1980 B. The Out-of-Family Investigations Advisory Committee (the Committee) is hereby established as an
1981 advisory committee in the executive branch of state government.

1982 C. The Committee shall consist of 15 members as follows: one representative of public school employees,
1983 one representative of a hospital for children, one representative of a licensed child care center, one
1984 representative of a juvenile detention home, one representative of a public or private residential facility for
1985 children, one representative of a ~~family day care home~~ *home-based child care*, one representative of a local
1986 department of Social Services, one representative of a religious organization with a program for children, one
1987 representative of Virginians for Child Abuse Prevention and six citizens of the Commonwealth at large. The
1988 Chairman of the Board shall appoint such persons for terms established by the Board.

1989 D. The Committee shall advise the Board on the effectiveness of the policies and standards governing out-
1990 of-family investigations.

1991 E. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of
1992 the members shall constitute a quorum. The meetings of the Committee shall be held at the call of the
1993 chairman or whenever the majority of the voting members so request.

1994 F. Members shall receive no compensation for their services nor be reimbursed for expenses incurred in
1995 the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825.

1996 G. The Department of Social Services shall provide staff support to the Committee. All agencies of the
1997 Commonwealth shall provide assistance to the Committee, upon request.

1998 **2. That the Board of Education, the Department of Social Services, and any other entity that is affected**
1999 **by the provisions of this act shall make such changes to regulations, policies, forms, guidance**
2000 **documents, and other documents as it deems necessary to properly effectuate the provisions of this act.**
2001 **The Department of Education may phase in the terminology changes set forth in this act over a period**
2002 **time to ensure that any necessary changes to its information technology systems can be integrated into**
2003 **future systems upgrades in order to minimize costs.**

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