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SENATE BILL NO. 863

Offered January 13, 2027

Prefiled November 19, 2026

A BILL to amend and reenact §§ 22.1-178, 22.1-212.13, 22.1-289.035, 22.1-289.036, 22.1-295, 22.1-296.2, 22.1-296.3, 22.1-349, and 52-46 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 7, consisting of sections numbered 22.1-253.01 and 22.1-253.02, relating to employees and volunteers of public and nonpublic schools, childcare entities, and youth athletics; certain background and criminal record checks; enrollment in Virginia Rap Back Service and criminal history record monitoring; requirements; penalty.

Patron—Perry

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-178, 22.1-212.13, 22.1-289.035, 22.1-289.036, 22.1-295, 22.1-296.2, 22.1-296.3, 22.1-349, and 52-46 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 7, consisting of sections numbered 22.1-253.01 and 22.1-253.02, as follows:

§ 22.1-178. Requirements for persons employed to drive school buses.

A. No school board shall hire, employ, or enter into any agreement with any person for the purposes of operating a school bus transporting pupils unless the person proposed to so operate such school bus ~~shall~~ *has*:

1. ~~Have~~ *Received* a physical examination of a scope prescribed by the Board with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board showing the results of such examination.

2. ~~Furnish~~ *Furnished* a statement or copy of records from the Department of Motor Vehicles showing that the records of such Department do not disclose that the person, within the preceding five years, has been convicted upon a charge of driving under the influence of alcohol or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 or, within the preceding 12 months, has been convicted of two or more moving traffic violations or required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-498.

3. ~~Furnish~~ *Furnished* a statement signed by two reputable persons who reside in the school division or in the applicant's community that the person is of good moral character.

4. ~~Exhibit~~ *Exhibited* a license showing the person has successfully undertaken the examination prescribed by § 46.2-339.

5. ~~Have reached~~ *Reached* the age of 18 by the first day of the school year.

6. Submitted to (i) fingerprinting and provided personal descriptive information to be forwarded along with the person's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such person, pursuant to subsection A of § 22.1-296.2, and (ii) enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46, for the purpose of allowing continuous monitoring for criminal record activity regarding such person through such service for the duration of such person's employment by such school board, pursuant to subsection B of § 22.1-296.2.

B. Any school board may require proof of current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator as a condition to employment to operate a school bus transporting pupils.

C. School boards may require persons accepting employment as a driver of a school bus transporting pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing. Any such tests shall be conducted in compliance with Board regulations.

D. The documents required pursuant to subdivisions A 1 and 2 shall be furnished annually prior to the anniversary date of the employment agreement as a condition to continuing employment to operate a school bus.

E. The documents required pursuant to this section shall be filed with, and made a part of, the records of the school board employing such person as a school bus operator.

F. The Department shall furnish to the several division superintendents the necessary forms to be used by applicants in furnishing the information required by this section. Insofar as practicable, such forms shall be designed to limit paperwork, avoid the possibility of mistake, and furnish all parties involved with a complete and accurate record of the information required.

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G. The physical examination required by subsection A may be performed and the report of the results signed by a licensed advanced practice registered nurse or physician assistant.

§ 22.1-212.13. Employment of professional, licensed personnel.

A. At the discretion of the local school board, charter school personnel may be employees of the local school board, or boards, granting the charter. Any personnel not employed by the local school board shall remain subject to the provisions of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4.

B. Professional, licensed education personnel may volunteer for assignment to a public charter school. Assignment in a public charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the public charter school, reassignment to the public charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed education personnel who request assignment to a public noncharter school in the relevant school division or who are not recommended for reassignment in the public charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a public noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a public charter school shall be granted the same employment benefits given to professional, licensed personnel in public noncharter schools in accordance with the policies of the relevant school board or boards.

E. School boards may employ such health, mental health, social services, and other related personnel to serve in residential charter schools for at-risk pupils as set forth in the charter agreement between such school board and the charter school; however, nothing herein shall require a school board to fund the residential or other services provided by a residential charter school.

F. Each public charter school established and operated pursuant to this article shall be a participating entity for the purpose of participating in and receiving notifications from the Department of State Police relating to the Virginia Rap Back Service, pursuant to § 52-46. Each public charter school shall ensure that each individual such charter school employs in a position that requires or involves direct contact with students and who is not an employee of a school board (i) submits to fingerprinting and the criminal history records check required of school board employees pursuant to subsection A of § 22.1-296.2, and (ii) is enrolled in the Virginia Rap Back Service pursuant to § 52-46, on the same basis as any school board employee pursuant to subsection B of § 22.1-296.2.

Article 7.

Youth Athletics and Sports.

§ 22.1-253.01. Definitions.

As used in this section:

"Interscholastic athletics" means a sport or athletics activity conducted between or among public secondary schools and, if applicable, private secondary schools.

"Interscholastic athletics coach" means a person who is employed by a school board to coach, manage, or supervise any interscholastic athletics or sports program or team provided by a public school in the applicable school division, including any teacher or other employee of the school board who is receiving a monetary supplement to coach, manage, or supervise any interscholastic athletics or sports program or team pursuant to a separate contract executed by the school board in accordance with subsection C of § 22.1-302.

"Interscholastic athletics program" means any program of sports or athletics provided by a public secondary school and, where applicable, private secondary school that is regulated or organized by an organization or entity whose purpose it is to regulate or govern interscholastic athletics programs in the Commonwealth.

"Non-interscholastic athletics coach" means a person who (i) is employed or authorized to work as a volunteer by a non-interscholastic youth sports or athletics organization to coach, manage, or supervise any non-interscholastic athletics or sports activity or team and (ii) has direct contact with one or more minors participating in or on any such athletics or sports activity or team.

"Non-interscholastic youth sports or athletics organization" means a private nongovernmental program or organization that organizes, operates, or coordinates competitive recreational sports or athletics activities and competitions for individuals who are 18 years of age or younger, whether individually or as a team, in the Commonwealth. "Non-interscholastic youth sports or athletics organization" does not include any sports or athletics program or organization that is affiliated with any public or private school in the Commonwealth.

§ 22.1-253.02. Employment of coaches; fingerprinting and criminal records checks; data on convictions for certain crimes and child abuse and neglect; requirements; penalty.

A. Each non-interscholastic youth sports or athletics organization shall be deemed a qualified entity as that term is defined in § 19.2-392.02 for the purpose of requesting the Department of State Police to conduct national criminal background checks. Each non-interscholastic youth sports or athletics organization shall require all applicants for employment or authorization to volunteer as a non-interscholastic athletics coach, as a condition of employment or authorization to volunteer, to:

1. On the application for employment or authorization to volunteer, provide certification (i) of whether the applicant has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child, or the solicitation of any such offense; or any crime of moral turpitude and (ii) that the applicant has not been the subject of a founded case of child abuse and neglect. Any individual making a materially false statement regarding any such offense set forth in clause (i) or a finding of child abuse and neglect pursuant to clause (ii) is guilty of a Class 1 misdemeanor;

2. Provide written consent and the necessary personal information for such non-interscholastic youth sports or athletics organization to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515. The non-interscholastic youth sports or athletics organization shall (i) ensure that all such searches are requested in conformance with the regulations of the State Board of Social Services and (ii) take reasonable steps to determine whether the applicant was the subject of a founded complaint of child abuse and neglect in the relevant state. The applicant may be required to pay the cost of any search conducted pursuant to this subdivision at the discretion of the organization. If the response obtained pursuant to this subdivision indicates that the applicant is the subject of a founded case of child abuse and neglect, such applicant shall be denied employment or authorization. The information provided to the school board, governing board, or administrator by the Department of Social Services shall be confidential and shall not be disseminated by the organization; and

3. Submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the non-interscholastic youth sports or athletics organization or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment set forth in this section based on whether or not the applicant has ever been convicted of any barrier crime as defined in § 19.2-392.02. The Central Criminal Records Exchange shall not disclose information to such non-interscholastic youth sports or athletics organization or private organization coordinating such records regarding charges or convictions of any crimes. The information provided to the organization or private organization coordinating such records shall not be disseminated except as provided in this section.

B. If any applicant is denied employment because of (i) information appearing on his record in the registry pursuant to subdivision A 2, the non-interscholastic youth sports or athletics organization shall provide a copy of the information obtained from the registry to the applicant or (ii) information appearing on the criminal history record pursuant to subdivision A 3 and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation.

C. No non-interscholastic youth sports or athletics organization shall employ any individual or authorize any individual to volunteer as a non-interscholastic athletics coach who:

1. As indicated by the response obtained pursuant to subdivision A 2, is the subject of a founded case of child abuse and neglect;

2. Has been convicted of any:

a. Offense involving the sexual molestation, physical or sexual abuse, or rape of a child, or the solicitation of any such offense; or

b. Violent felony or crime of moral turpitude set forth in the definition of barrier crime in subsection A of § 19.2-392.02, provided, however, that any such organization may employ or authorize to volunteer such an individual if (i) such felony conviction does not involve the sexual molestation, physical or sexual abuse, or rape of a child, or the solicitation of any such offense; (ii) such an individual (a) has had his civil rights restored by the Governor; (b) has completed all terms of supervision and has been released from supervision for more than 20 years; (c) is, in the opinion of the organization, of upstanding character; and (d) has demonstrated commitment to public or community service and rehabilitation after completing all terms of supervision; and (iii) the organization certifies in writing that such an individual meets the requirements set forth in this subdivision; or

3. Would otherwise be prohibited from working as an interscholastic athletics coach who has direct contact with minors pursuant to applicable state law or the regulations of an organization or entity whose purpose it is to regulate or govern interscholastic athletics programs in the Commonwealth.

D. Each non-interscholastic youth sports or athletics organization shall, pursuant to a written agreement with the Department of State Police, enroll all individuals it employs or authorizes to volunteer as a non-interscholastic athletics coach in the Virginia Rap Back Service established pursuant to § 52-46 for the purpose of allowing continuous monitoring for criminal record activity regarding such applicant or volunteer

for the duration of such individual's employment or service as a volunteer. The non-interscholastic youth sports or athletics organization may, in its discretion, require the individual to pay for all or a portion of the annual fee for enrollment in the Virginia Rap Back Service, provided that no individual shall be required to pay an amount that exceeds the amount of such fee imposed pursuant to subsection G of § 52-46. The non-interscholastic youth sports or athletics organization shall, upon receiving a notification from the Department of State Police pursuant to a written agreement with the Department of State Police and in accordance with subsection C of § 52-46 with respect to an individual enrolled in the Virginia Rap Back Service, pursuant to this subsection, use such information solely for the purposes of determining the eligibility of the continued employment or service of such employee and shall not further disseminate any information contained in such notification.

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

A. No child day center, home-based child care, or home-based child care system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 22.1-289.031, registered home-based child care, home-based child care approved by a home-based child care system, or child day center, home-based child care, or child day program that enters into a contract with the Department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter. However, pending the results of all background check components set forth in subsection B, an applicant for employment or an applicant to serve as a volunteer may work in the child day center, home-based child care, or home-based child care system, provided that (a) the applicant has received qualifying results on a fingerprint-based background check through the Central Criminal Records Exchange or the Federal Bureau of Investigation and (b) the applicant is supervised at all times by a person who received a qualifying result on a background check conducted in accordance with subsection B within the past five years. *Each child day center, home-based child care, or home-based child care system shall be a participating entity for the purposes of participation in the Virginia Rap Back Service established pursuant to § 52-46 and shall enroll each individual it hires for compensated employment, continues to employ, or permits to serve as a volunteer, who will be alone with, in control of, or supervising children, in the Virginia Rap Back Service pursuant to subsection J of § 52-46.*

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

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

2. Submit to *(i)* fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02 *and (ii) enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46, for the purpose of allowing continuous monitoring for criminal record activity regarding such individual for the duration of his employment or volunteer service at such child day center, home-based child care, or home-based child care system*;

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

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

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee, and the Department or its designee shall report to the child day center or home-based child care whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department or its designee shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, home-based child care, or home-based child care system. *Each child day center, home-based child care, or home-based child care system, upon receiving*

a notification from the Department of State Police pursuant to subsection C of § 52-46 with respect to an employee or volunteer who is enrolled in the Virginia Rap Back Service pursuant to subdivision B 2, use such information solely for the purposes of determining the eligibility of the continued employment or service of such employee and shall not further disseminate any information contained in such notification.

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

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

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

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

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

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration. *Each child day center, home-based child care, or home-based child care system may, with respect to any individual required to be enrolled in the Virginia Rap Back Service pursuant to subdivision B 2, in its discretion, (i) pay for all or a portion of the individual's annual fee for enrollment in the Virginia Rap Back Service or (ii) require the individual to pay all or a portion of such annual fee, provided that no employee shall be required to pay an amount that exceeds the amount of such fee imposed pursuant to subsection G of § 52-46.*

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

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

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

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

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

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

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

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

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

2. Submit to *(i)* fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02 *and (ii) enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46 for the purpose of allowing continuous monitoring for criminal record activity regarding such individual for the duration of his employment or volunteer service at such child day center, home-based child care, or home-based child care system*;

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

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

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee. The Department or its designee shall report to the child day center, home-based child care, or home-based child care system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department or its designee shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. *Each child day center, home-based child care, or home-based child care system shall, upon receiving a notification from the Department of State Police pursuant to subsection C of § 52-46 with respect to an employee or volunteer who is enrolled in the Virginia Rap Back Service pursuant to subdivision B 2, use such information solely for the purposes of determining the eligibility of the continued employment or service of such employee and shall not further disseminate any information contained in such notification.*

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

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

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

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

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

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

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration. *Each child day center, home-based child care, or home-based child care system may, with respect to any individual required to be enrolled in the Virginia Rap Back Service pursuant to subdivision B 2, in its discretion, (i) pay for all or a portion of the individual's annual fee for enrollment in the Virginia Rap Back Service or (ii) require the individual to pay all or a portion of such annual fee, provided that no employee shall be required to pay an amount that exceeds the amount of such fee imposed pursuant to subsection G of § 52-46.*

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

§ 22.1-295. Employment of teachers; personnel employed or permitted to serve as volunteers in certain positions involving direct contact with students; requirements.

A. The teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel qualified in the relevant subject areas.

B. School boards shall adopt employment policies and practices designed to promote the employment and retention of highly qualified teachers and to effectively serve the educational needs of students. Such policies shall include, but need not be limited to, incentives for excellence in teaching, including financial support for teachers attending professional development seminars or those seeking and obtaining national certification.

C. School boards shall develop a procedure for use by division superintendents and principals in evaluating teachers that is appropriate to the tasks performed and addresses, among other things, student academic progress and the skills and knowledge of instructional personnel, including, but not limited to, instructional methodology, classroom management, and subject matter knowledge.

Teachers employed by local school boards who have achieved continuing contract status shall be formally evaluated at least once every three years and more often as deemed necessary by the principal, and they shall be evaluated informally during each year in which they are not formally evaluated. Any teacher who has achieved continuing contract status who receives an unsatisfactory formal evaluation and who continues to be employed by the local school board shall be formally evaluated in the following year. The evaluation shall be maintained in the employee's personnel file.

Each local superintendent shall annually certify divisionwide compliance with the provisions of this section to the Department.

D. Each school board shall enroll in the Virginia Rap Back Service pursuant to subsection J of § 52-46 (i) each individual that it employs in an instructional or noninstructional position, whether on a full-time, part-time, permanent, or temporary basis, pursuant to subdivision B of § 22.1-296.2, and (ii) each individual that it permits to serve as a volunteer in any position that requires or involves direct contact with students on school property during regular school hours or during school-sponsored activities, whether on a full-time, part-time, permanent, or temporary basis, pursuant to subdivision C of § 22.1-296.2. For the purposes of this subsection, "school board" includes the Board of Visitors of the Virginia School for the Deaf and the Blind, which, for the purposes of enrolling any employees or volunteers in and receiving notifications from the Department of State Police pursuant to the Virginia Rap Back Service in accordance with subsection J of § 52-46, shall be a participating entity.

§ 22.1-296.2. Fingerprinting required; reciprocity permitted.

A. As a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment, whether ~~full time~~ *full-time* or ~~part time~~ *part-time* or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii)

in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the school board, which shall be a governmental entity, whether or not the applicant has ever been convicted of a felony or a Class 1 misdemeanor or an equivalent offense in another state.

To conserve the costs of conducting criminal history record checks to applicants and school boards, upon the written request and permission of the applicant, a school board shall inform another school board with which reciprocity has been established, and to which the applicant also has applied for employment, of the results of the criminal history record information conducted within the previous 90 days that it obtained concerning the applicant. Criminal history record information pertaining to an applicant for employment by a school board shall be exchanged only between school boards in the Commonwealth in which a current agreement of reciprocity for the exchange of such information has been established and is in effect. Reciprocity agreements between school boards shall provide for the apportionment of the costs of the fingerprinting or criminal records check between the applicant and the school board, as prescribed in this section. However, school boards that enter into reciprocity agreements shall not each levy the costs of the fingerprinting or criminal records check on the applicant.

B. *Each school board shall, as a condition of employment for all public school employees, whether full-time or part-time, permanent, or temporary, require any applicant who is offered or accepts employment to submit to enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46, for the purpose of allowing continuous monitoring for criminal record activity regarding such applicant through such service for the duration of such individual's employment by such school board. Each school board shall use the information submitted by any applicant for employment pursuant to subsection A to enroll such individual in the Virginia Rap Back Service. Each school board may, in its discretion, (i) pay for all or a portion of the annual fee for enrollment in the Virginia Rap Back Service or (ii) require the individual employee to pay all or a portion of such annual fee, provided that no employee shall be required to pay an amount that exceeds the amount of such fee imposed pursuant to subsection G of § 52-46.*

C. Each school board shall, as a condition of permitting any individual to serve on a volunteer basis, whether full-time or part-time, permanent, or temporary, in any position that requires or involves direct contact with students on school property during regular school hours or during school-sponsored activities, require such individual to submit to (i) fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant and (ii) enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46, for the purpose of allowing continuous monitoring for criminal record activity regarding such individual through such service for the duration of such individual's service as a volunteer. Each school board may, in its discretion, (a) pay for all or a portion of the cost of fingerprinting or criminal records check or the annual fee for enrollment in the Virginia Rap Back Service for any such volunteer or (b) require the volunteer to pay for all or a portion of the cost of such fingerprinting or criminal records check or the annual fee for enrollment in the Virginia Rap Back Service, provided that no volunteer shall be required to pay an amount that exceeds the amount of such fee imposed pursuant to subsection G of § 52-46. The Central Criminal Records exchange, upon receipt of a volunteer's record or notification that no record exists, shall report to the school board, which shall be a governmental entity, whether or not the applicant has ever been convicted of a felony or a Class 1 misdemeanor or an equivalent offense in another state.

D. The division superintendent shall inform the relevant school board of any notification of arrest of a school board employee received pursuant to § 19.2-83.1. The school board shall require such employee, whether ~~full time~~ *full-time* or ~~part time~~ *part-time* or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such employee. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an employee's record or notification that no record exists, shall report to the school board whether or not the employee has been convicted of any of the offenses listed in subsection A. The contents of the employee's record shall be used by the school board solely to implement the provisions of §§ 22.1-307 and 22.1-315.

~~C.~~ *E. Each school board shall, upon receiving a notification from the Department of State Police pursuant to subsection C of § 52-46 with respect to an employee of the school board or an individual permitted to serve as a volunteer who enrolled in the Virginia Rap Back Service pursuant to subsections B or C, use such information solely for the purposes of determining the eligibility of the continued employment or service of such employee and shall not further disseminate any information contained in such notification.*

F. The Central Criminal Records Exchange shall not disclose information to the school board regarding

charges or convictions of any crimes not specified in this section. If an applicant is denied employment or a current employee is suspended or dismissed because of information appearing on his criminal history record, the school board shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant or employee. The information provided to the school board shall not be disseminated except as provided in this section.

~~D.~~*G.* For the purposes of this section, "school board" includes the Board of Visitors of the Virginia School for the Deaf and the Blind, which, *(i)* for the purpose of receiving criminal history record information pertaining to an application for employment from the Central Criminal Records Exchange, shall be a governmental entity*, and (ii) for the purposes of enrolling any employee or volunteer in and receiving notifications from the Department of State Police pursuant to the Virginia Rap Back Service in accordance with subsection J of § 52-46, shall be a participating entity*.

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

A. As a condition of employment, the governing boards or administrators of private elementary or secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts employment, whether ~~full time~~ *full-time* or ~~part time~~ *part-time* or permanent or temporary, *and any individual who it permits to serve as a volunteer in a position that requires or involves direct contact with students, whether full-time or part-time or permanent or temporary,* to submit to *(i)* fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's *or volunteer's* fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant *or volunteer and (ii) enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46 for the purpose of allowing continuous monitoring for criminal record activity regarding such applicant or volunteer through such employment or service for the duration of such individual's employment or service as a volunteer, in accordance with subsection F*.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the governing board or administrator, or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of any barrier crime as defined in § 19.2-392.02.

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

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

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

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

E. The governing boards or administrators of private elementary and secondary schools that are accredited pursuant to § 22.1-19 shall adopt and implement policies prohibiting any individual who is a governing board

member, administrator, employee, contractor, or agent of a private elementary or secondary school to assist a governing board member, administrator, employee, contractor, or agent of such private elementary or secondary school in obtaining a new job if such individual knows or has probable cause to believe that the individual seeking new employment engaged in sexual misconduct regarding a minor or student in violation of law.

F. The governing board or administrator of any private elementary or secondary school that is accredited pursuant to § 22.1-19 shall be deemed a participating entity for the purpose of participating in and receiving notifications from the Department of State Police through the Virginia Rap Back Service established pursuant to § 52-46 and shall enroll each individual it employs or permits to serve on a volunteer basis, whether full-time or part-time, permanent, or temporary, in any position that requires or involves direct contact with students, in the Virginia Rap Back Service pursuant to subsection J of § 52-46. The governing board or administrator of any such private elementary or secondary school may, in its discretion, require the individual to pay for all or a portion of the annual fee for enrollment in the Virginia Rap Back Service, provided that no individual shall be required to pay an amount that exceeds the amount of such fee imposed pursuant to subsection G of § 52-46. The governing board or administrator of any such private elementary or secondary school shall, upon receiving a notification from the Department of State Police pursuant to subsection C of § 52-46 with respect to an individual enrolled in the Virginia Rap Back Service, pursuant to this subsection, use such information solely for the purposes of determining the eligibility of the continued employment or service of such employee and shall not further disseminate any information contained in such notification.

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

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

§ 22.1-349. Terms of employment of teachers.

For the purpose of retirement and other statutory benefits, teachers employed as full-time instructional personnel by the Board of Visitors shall be deemed to be full-time state personnel and shall receive the same benefits as are accorded all other full-time state personnel. The Board of Visitors shall require the teachers at the Virginia School for the Deaf and the Blind to comply with the provisions of §§ 22.1-298.1, 22.1-299, and 22.1-303. The Board of Visitors shall require any applicant for employment as full-time instructional personnel or other position requiring as a condition of employment direct contact with students, *or any individual it permits to serve as a volunteer in a position that requires or involves direct contact with students,* to submit to *(i)* a fingerprinting and criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation, in accordance with the provisions of §§ 22.1-296 and 22.1-296.1, *and (ii) enrollment in the Virginia Rap Back Service pursuant to subsection J of § 52-46, for the purpose of allowing continuous monitoring for criminal record activity regarding such individual through such employment or service for the duration of such individual's employment or service as a volunteer, in accordance with the provisions of § 22.1-296.2*. The Board of Visitors shall be deemed a governmental entity for the purpose of receiving from the Central Criminal Records Exchange any criminal history record information pertaining to an application for employment *and shall be a participating entity for the purpose of enrolling individuals in and receiving notifications from the Department of State Police through the Virginia Rap Back Service established pursuant to § 52-46*. Contracts for the employment of teachers shall be in the form prescribed by the school board of the school division in which the school is located. In cases of nonrenewal of contracts of probationary teachers, the decisions shall be appealable to the Board of Visitors. For all other purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia School for the Deaf and the Blind.

The Board of Visitors shall establish salary schedules for all professional personnel that are competitive with those in effect for the school divisions in which the facility is located.

§ 52-46. Virginia Rap Back Service; criminal history record monitoring; maintenance; dissemination; penalty.

A. The Department of State Police, through the Virginia Record of Arrest and Prosecution (Rap) Back Service, shall participate in the Federal Bureau of Investigation's (FBI) Next Generation Identification (NGI) Rap Back Service. The purpose of the Virginia Rap Back Service shall be to allow governmental entities that require a fingerprint-based criminal background check as a condition of (i) providing care to (a) children, (b) the disabled, or (c) the elderly or (ii) (a) licensure, (b) certification, (c) employment, or (d) volunteer service to be advised when an individual subject to such screening is the subject of a Rap Back notification event, including being arrested for, or convicted of, a criminal offense. The Department is authorized to submit fingerprints and accompanying records to the FBI to be retained in the FBI's NGI Rap Back Service. Fingerprints submitted to the FBI may be used for future searches, including latent searches.

B. As used in this section:

"Individual" means any person who has submitted to a fingerprint-based background check in order to (i)

care for ~~(a)~~ children, ~~(b)~~ the disabled, or ~~(c)~~ the elderly ~~or~~*;* (ii) ~~(a)~~ be licensed, ~~(b)~~ ~~be~~ certified, ~~(c)~~ ~~be~~ *or* employed~~,~~*;* or ~~(d)~~ *(iii)* perform volunteer service with a participating entity and who has been enrolled by that participating entity in the Virginia Rap Back Service.

"Participating entity" means *(i)* a governmental entity that requires a fingerprint-based background check as a condition of ~~(i)~~ *(a)* caring for ~~(a)~~ children, ~~(b)~~ the disabled, or ~~(c)~~ the elderly or ~~(ii)~~ ~~(a)~~ *(b)* licensure, ~~(b)~~ certification, ~~(c)~~ employment, or ~~(d)~~ volunteer service and that has elected to enroll individuals in the Virginia Rap Back Service *or (ii) an entity required under subsection J to enroll individuals in the Virginia Rap Back Service*.

C. The Department of State Police shall ensure that notification is made forthwith to the participating entity that enrolls an individual in the Virginia Rap Back Service when an FBI Rap Back notification is received. The information contained in the notification shall be used by the participating entity for purposes of determining the eligibility of the continued service of the individual and shall not be further disseminated.

D. Use of the information submitted to the Virginia Rap Back Service for purposes not authorized by this section is prohibited~~, and a willful violation of~~. *Any person who willfully violates* this section, with the intent to harass or intimidate another ~~shall be punished as~~*, is guilty of* a Class 1 misdemeanor.

E. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

F. The Department of State Police shall promulgate regulations governing the operation and maintenance of the Virginia Rap Back Service and the removal and destruction of records on individuals who are deceased or who are no longer individuals as defined in this section. Such regulations shall provide that a participating entity shall disenroll any individual who is deceased or is no longer an individual as defined in this section within five business days of death or such event that no longer requires such individual to be enrolled in the Virginia Rap Back Service, in order to ensure the prompt removal and destruction of records from the Virginia Rap Back Service.

G. The Department of State Police may charge an annual fee not to exceed $12 per individual enrolled in the Virginia Rap Back Service. The fee shall be paid by any participating entity enrolling an individual in the Virginia Rap Back Service. When more than one participating entity enrolls the same individual in the Virginia Rap Back Service, both participating entities shall be responsible for paying the full cost for maintenance and notification. Any fees collected shall be deposited in a special account to be used to offset the costs of subscription fees, maintenance fees, and enhancements related to the Criminal and Rap Back Information System.

H. The Department of State Police shall make the Virginia Rap Back Service available no later than July 1, 2025, unless funds necessary to develop and operate the Virginia Rap Back Service are unavailable.

I. No participating entity authorized to submit fingerprints shall be considered negligent per se in a civil action solely because the entity elected not to enroll an individual in the Virginia Rap Back Service pursuant to this section.

J. Notwithstanding any other provision of law to the contrary, any school board, governing board or administrator of any private elementary or secondary school accredited pursuant to § 22.1-19, child care provider under the authority of the Board of Education pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1, health care provider, as defined in § 32.1-127.1:03, certified nursing facility or nursing home, as those terms are defined in § 32.1-123, community services board established pursuant to § 37.2-501, behavioral health authority organized in accordance with the provisions of Chapter 6 (§ 37.2-600 et seq.) of Title 37.2, adult day center as that term is defined in § 63.2-100, assisted living facility, as that term is defined in § 63.2-100, child-placing agency, as that term is defined in § 63.2-100, local board or department of social services subject to the provisions of § 63.2-325.1, local board of social services subject to the provisions of § 63.2-1601.1, or any other qualified entity or provider as those terms are defined in § 19.2-392.02, that (i) employs persons or permits persons to serve as volunteers and (ii) requires a fingerprint-based criminal background check as a condition of such employment or volunteer service shall enroll individuals it employs or permits to serve as volunteers in the Virginia Rap Back Service.

2. That each entity required, pursuant to this act, to enroll individuals in the Virginia Rap Back Service established pursuant to § 52-46 of the Code of Virginia, as amended by this act, shall ensure that, by no later than July 1, 2028, each individual employed or authorized to serve as a volunteer by such entity prior to the effective date of this act and who maintains continuous employment or authorization to serve as a volunteer after the effective date of this act is enrolled in the Virginia Rap Back Service in accordance with the provisions of this act.