

24103351D

SENATE BILL NO. 626

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact §§ 37.2-314, 37.2-416.1, and 37.2-506.1 of the Code of Virginia, relating to barrier crimes; adult substance abuse and mental health services; exception.

Patrons—Pillion, Favola, Aird, Bagby, Boysko, Hackworth, Mulchi and Rouse

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-314, 37.2-416.1, and 37.2-506.1 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-314. Background check required.

A. As a condition of employment, the Department shall require any applicant who (i) accepts a position of employment at a state facility and was not employed by that state facility prior to July 1, 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the Commonwealth and was not employed by the Department prior to July 1, 1996, to 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 (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

C. Notwithstanding the provisions of subsection B, the Department may hire for compensated employment at an adult substance abuse or mental health treatment program a person who was convicted of any misdemeanor violation of § 18.2-57 or any violation of § 18.2-248, 18.2-250, or 18.2-258.1, except an offense pursuant to subsection H1 or H2 of § 18.2-248, provided that such conviction occurred more than five years prior to the application date for employment. The Department may, at its discretion, establish other appropriate hiring criteria to screen applicants who meet the criteria of this subsection.

D. Notwithstanding the provisions of subsection B, the Department may hire for compensated employment at an adult substance abuse or adult mental health treatment program a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or ~~subsection A of § 18.2-57~~; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history. In addition, where the employment at an adult substance abuse treatment program is as a peer recovery specialist, the Department may hire any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the Department determines, based upon a screening assessment, that the criminal behavior was substantially related to the person's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

For the purposes of this subsection, "peer recovery specialist" means any person who has completed a peer recovery specialist training course approved by the Department of Behavioral Health and Developmental Services.

E. The Department and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsection D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening,

59 the applicant shall have completed all prison or jail terms; shall not be under probation or parole
 60 supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and
 61 court costs for any prior convictions; and shall have been free of parole or probation for at least five
 62 years for all convictions. In addition to any supplementary information the Department or screening
 63 contractor may require or the applicant may wish to present, the applicant shall provide to the screening
 64 contractor a statement from his most recent probation or parole officer, if any, outlining his period of
 65 supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony
 66 conviction. The cost of this screening shall be paid by the applicant, unless the Department decides to
 67 pay the cost.

68 ~~E.~~ F. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification
 69 that no record exists, shall submit a report or record to the state facility or to the Department. If an
 70 applicant is denied employment because of information appearing on his criminal history record and the
 71 applicant disputes the information upon which the denial was based, the Central Criminal Records
 72 Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the
 73 criminal history record from the FBI. The information provided to the state facility or Department shall
 74 not be disseminated except as provided in this section.

75 ~~F.~~ G. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or
 76 Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any
 77 investigation of child abuse or neglect undertaken on them.

78 ~~G.~~ H. The Board may adopt regulations to comply with the provisions of this section. Copies of any
 79 information received by the state facility or Department pursuant to this section shall be available to the
 80 Department and to the applicable state facility but shall not be disseminated further, except as permitted
 81 by state or federal law. The cost of obtaining the criminal history record and the central registry
 82 information shall be borne by the applicant, unless the Department or state facility decides to pay the
 83 cost.

84 **§ 37.2-416.1. Background checks required; adult substance abuse and mental health services.**

85 A. As used in this section:

86 "Direct care position" means any position that includes responsibility for (i) treatment, case
 87 management, health, safety, development, or well-being of an adult receiving substance abuse or mental
 88 health services or (ii) immediately supervising a person in a position described in this definition.

89 "Hire for compensated employment" does not include (i) a promotion from one adult substance abuse
 90 or adult mental health treatment position to another such position within the same licensee licensed
 91 pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health
 92 treatment position in another office or program licensed pursuant to this article if the person employed
 93 prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application
 94 date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an
 95 adult substance abuse treatment position to any mental health or developmental services direct care
 96 position within the same licensee licensed pursuant to this article or (b) new employment in any mental
 97 health or developmental services direct care position in another office or program of the same licensee
 98 licensed pursuant to this article for which the person has previously worked in an adult substance abuse
 99 treatment position.

100 "Peer recovery specialist" means any person who has completed a peer recovery specialist training
 101 course approved by the Department of Behavioral Health and Developmental Services.

102 "Provider" means a provider who is licensed pursuant to this article and who provides substance
 103 abuse or mental health services to adults.

104 B. Every provider shall require (i) any applicant who accepts employment in any direct care position
 105 and (ii) any person under contract with the provider to serve in a direct care position to submit to
 106 fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal
 107 Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national
 108 criminal history record information regarding the applicant. Except as otherwise provided in subsection
 109 C, D, E, or F G, no provider shall:

110 1. Hire for compensated employment any person who has been convicted of (i) any offense set forth
 111 in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth
 112 in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the
 113 application date for employment or (b) if such person continues on probation or parole or has failed to
 114 pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in
 115 § 19.2-392.02; or

116 2. Allow any person under contract with the provider to serve in a direct care position who has been
 117 convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in §
 118 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02
 119 (a) in the five years prior to the application date for employment or (b) if such person continues on
 120 probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of

121 the definition of barrier crime in § 19.2-392.02.

122 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
123 record exists, shall submit a report to the requesting authorized officer or director of a provider. If any
124 applicant is denied employment because of information appearing on the criminal history record and the
125 applicant disputes the information upon which the denial was based, the Central Criminal Records
126 Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the
127 criminal history record from the FBI. The information provided to the authorized officer or director of a
128 provider shall not be disseminated except as provided in this section.

129 *C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment*
130 *or permit any person under contract with the provider to serve in a direct care position or permit any*
131 *person employed by a temporary agency that has entered into a contract with the provider to provide*
132 *direct care services on behalf of the provider at an adult substance abuse or mental health treatment*
133 *program a person who was convicted of any misdemeanor violation of § 18.2-57 or any violation of*
134 *§ 18.2-248, 18.2-250, or 18.2-258.1, except an offense pursuant to subsection H1 or H2 of § 18.2-248,*
135 *provided that such conviction occurred more than five years prior to the application date for*
136 *employment. A provider may, at its discretion, establish other appropriate hiring criteria to screen*
137 *applicants who meet the criteria of this subsection.*

138 *D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment*
139 *or permit any person under contract with the provider to serve in a direct care position or permit any*
140 *person employed by a temporary agency that has entered into a contract with the provider to provide*
141 *direct care services on behalf of the provider at adult substance abuse or adult mental health treatment*
142 *programs a person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of §*
143 *18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any first offense misdemeanor violation of §*
144 *18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of*
145 *§ 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in clause (iii) of the definition of barrier*
146 *crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any*
147 *substantially similar offense under the laws of another jurisdiction, if the hiring provider determines,*
148 *based upon a screening assessment, that the criminal behavior was substantially related to the applicant's*
149 *substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk*
150 *to individuals receiving services based on his criminal history background and his substance abuse or*
151 *mental illness history. In addition, where the employment at an adult substance abuse treatment program*
152 *is as a peer recovery specialist, the provider may hire any person eligible under this subsection or who*
153 *was convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if*
154 *the hiring provider determines, based upon a screening assessment, that the criminal behavior was*
155 *substantially related to the person's substance abuse or mental illness and that the person has been*
156 *successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history*
157 *background and his substance abuse or mental illness history.*

158 ~~D.~~ *E. Notwithstanding the provisions of subsection B, a provider may hire for compensated*
159 *employment or permit any person under contract with the provider to serve in a direct care position or*
160 *permit any person employed by a temporary agency that has entered into a contract with the provider to*
161 *provide direct care services on behalf of the provider at adult substance abuse treatment facilities a*
162 *person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any*
163 *substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a*
164 *simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was*
165 *convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the*
166 *conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal*
167 *behavior was substantially related to the applicant's substance abuse and that the person has been*
168 *successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history*
169 *background and his substance abuse history.*

170 ~~E.~~ *F. The hiring provider and a screening contractor designated by the Department shall screen*
171 *applicants who meet the criteria set forth in subsections C and D and E to assess whether the applicants*
172 *have been rehabilitated successfully and are not a risk to individuals receiving services based on their*
173 *criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such*
174 *screening, the applicant shall have completed all prison or jail terms, shall not be under probation or*
175 *parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution,*
176 *and court costs for any prior convictions, and shall have been free of parole or probation for at least*
177 *five years for all convictions. In addition to any supplementary information the provider or screening*
178 *contractor may require or the applicant may wish to present, the applicant shall provide to the screening*
179 *contractor a statement from his most recent probation or parole officer, if any, outlining his period of*
180 *supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony*
181 *conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides*

182 to pay the cost.

183 ~~F.~~ *G.* Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated
 184 employment, (ii) approve as a sponsored residential service provider, (iii) permit to enter into a shared
 185 living arrangement, or (iv) permit any person under contract with the provider to serve in a direct care
 186 position on behalf of the provider or permit any person employed by a temporary agency that has
 187 entered into a contract with the provider to provide direct care services on behalf of the provider persons
 188 who have been convicted of not more than one misdemeanor offense under § ~~18.2-57~~ ~~or~~ 18.2-57.2, or
 189 any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed
 190 following the conviction, unless the person committed the offense while employed in a direct care
 191 position. A provider may also approve a person as a sponsored residential service provider if (a) any
 192 adult living in the home of an applicant or (b) any person employed by the applicant to provide services
 193 in the home in which sponsored residential services are provided has been convicted of not more than
 194 one misdemeanor offense under § ~~18.2-57~~ ~~or~~ 18.2-57.2, or any substantially similar offense under the
 195 laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person
 196 committed the offense while employed in a direct care position.

197 ~~G.~~ *H.* Every provider shall require, as a condition of employment, approval as a sponsored residential
 198 service provider, permission to enter into a shared living arrangement with a person receiving medical
 199 assistance services pursuant to a waiver, or permission for any person under contract with the provider
 200 to serve in a direct care position, written consent and personal information necessary to obtain a search
 201 of the registry of founded complaints of child abuse and neglect that is maintained by the Department of
 202 Social Services pursuant to § 63.2-1515.

203 ~~H.~~ *I.* The cost of obtaining the criminal history record and search of the child abuse and neglect
 204 registry record shall be borne by the applicant, unless the provider decides to pay the cost.

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

208 ~~J.~~ *K.* Notwithstanding any other provision of law, a provider that provides services to individuals
 209 receiving services under the state plan for medical assistance services or any waiver thereto may disclose
 210 to the Department of Medical Assistance Services (i) whether a criminal history background check has
 211 been completed for a person described in subsection B for whom a criminal history background check is
 212 required and (ii) whether the person described in subsection B is eligible for employment, to provide
 213 sponsored residential services, to provide services in the home of a sponsored residential service
 214 provider, or to enter into a shared living arrangement with a person receiving medical assistance services
 215 pursuant to a waiver.

216 ~~K.~~ *L.* Any person employed by a temporary agency that has entered into a contract with a provider
 217 and who will serve in a direct care position on behalf of such provider shall undergo a background
 218 check that shall include:

219 1. A criminal history records check through the Central Criminal Records Exchange pursuant to
 220 § 19.2-389; and

221 2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of
 222 child abuse and neglect.

223 Except as otherwise provided in subsection C, D, E, or ~~F~~ G, no provider shall permit any person
 224 employed by a temporary agency that has entered into a contract with the provider to provide direct care
 225 services on behalf of the provider if that person has been convicted of (i) any offense set forth in clause
 226 (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause
 227 (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date
 228 for employment or (b) if such person continues on probation or parole or has failed to pay required
 229 court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

230 **§ 37.2-506.1. Background checks required; adult substance abuse and mental health services.**

231 A. As used in this section:

232 "Direct care position" means any position that includes responsibility for (i) treatment, case
 233 management, health, safety, development, or well-being of an adult receiving substance abuse or mental
 234 health services or (ii) immediately supervising a person in a position described in this definition.

235 "Hire for compensated employment" does not include (i) a promotion from one adult substance abuse
 236 or adult mental health treatment position to another such position within the same community services
 237 board or (ii) new employment in an adult substance abuse or adult mental health treatment position in
 238 another office or program of the same community services board if the person employed prior to July 1,
 239 1999, had no convictions in the five years prior to the application date for employment. "Hire for
 240 compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment
 241 position to any mental health or developmental services direct care position within the same community
 242 services board or (b) new employment in any mental health or developmental services direct care
 243 position in another office or program of the same community services board for which the person has

244 previously worked in an adult substance abuse treatment position.

245 "Peer recovery specialist" means any person who has completed a peer recovery specialist training
246 course approved by the Department of Behavioral Health and Developmental Services.

247 B. Every community services board shall require (i) any applicant who accepts employment in any
248 direct care position with the community services board and (ii) any person under contract to serve in a
249 direct care position on behalf of the community services board to submit to fingerprinting and provide
250 personal descriptive information to be forwarded through the Central Criminal Records Exchange to the
251 Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record
252 information regarding the applicant. Except as otherwise provided in subsection C, D, E, or F G, no
253 community services board shall hire for compensated employment, approve as a sponsored residential
254 service provider, permit to enter into a shared living arrangement with a person receiving medical
255 assistance services pursuant to a waiver, or permit any person under contract to serve in a direct care
256 position on behalf of the community services board persons who have been convicted of (a) any offense
257 set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense
258 set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to
259 the application date for employment, the application date to be a sponsored residential service provider,
260 or entering into a shared living arrangement or (2) if such person continues on probation or parole or
261 has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier
262 crime in § 19.2-392.02.

263 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
264 record exists, shall submit a report to the requesting executive director or personnel director of the
265 community services board. If any applicant is denied employment because of information appearing on
266 his criminal history record and the applicant disputes the information upon which the denial was based,
267 the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the
268 procedures for obtaining a copy of the criminal history record from the FBI. The information provided
269 to the executive director or personnel director of any community services board shall not be
270 disseminated except as provided in this section.

271 C. *Notwithstanding the provisions of subsection B, the community services board may hire for*
272 *compensated employment or permit any person under contract with the provider to serve in a direct*
273 *care position or permit any person employed by a temporary agency that has entered into a contract*
274 *with the provider to provide direct care services on behalf of the provider at an adult substance abuse*
275 *or mental health treatment program a person who was convicted of any misdemeanor violation of*
276 *§ 18.2-57 or any violation of § 18.2-248, 18.2-250, or 18.2-258.1, except an offense pursuant to*
277 *subsection H1 or H2 of § 18.2-248, provided that such conviction occurred more than five years prior*
278 *to the application date for employment. The community services board may, at its discretion, establish*
279 *other appropriate hiring criteria to screen applicants who meet the criteria of this subsection.*

280 D. Notwithstanding the provisions of subsection B, the community services board may hire for
281 compensated employment or permit any person under contract to serve in a direct care position on
282 behalf of the community services board or permit any person employed by a temporary agency that has
283 entered into a contract with the community services board to provide direct care services on behalf of
284 the community services board at adult substance abuse or adult mental health treatment programs a
285 person who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or,
286 18.2-56.1, ~~subsection A of § 18.2-57~~, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or
287 18.2-94; any misdemeanor violation of § 18.2-282, 18.2-346, or 18.2-346.01; any offense set forth in
288 clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection
289 H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if
290 the hiring community services board determines, based upon a screening assessment, that the criminal
291 behavior was substantially related to the applicant's substance abuse or mental illness and that the person
292 has been successfully rehabilitated and is not a risk to individuals receiving services based on his
293 criminal history background and his substance abuse or mental illness history. In addition, where the
294 employment at an adult substance abuse treatment program is as a peer recovery specialist, the
295 community services board may hire any person eligible under this subsection or who was convicted of
296 any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 if the hiring
297 community services board determines, based upon a screening assessment, that the criminal behavior
298 was substantially related to the person's substance abuse or mental illness and that the person has been
299 successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history
300 background and his substance abuse or mental illness history.

301 ~~D.~~ E. Notwithstanding the provisions of subsection B, the community services board may hire for
302 compensated employment or permit any person under contract to serve in a direct care position on
303 behalf of the community services board or permit any person employed by a temporary agency that has
304 entered into a contract with the community services board to provide direct care services on behalf of

305 the community services board at adult substance abuse treatment programs a person who has been
306 convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar
307 offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the
308 offense was a felony committed in Virginia, or the equivalent if the person was convicted under the
309 laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the
310 hiring community services board determines, based upon a screening assessment, that the criminal
311 behavior was substantially related to the applicant's substance abuse and that the person has been
312 successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history
313 background and his substance abuse history.

314 ~~E.~~ F. The community services board and a screening contractor designated by the Department shall
315 screen applicants who meet the criteria set forth in subsections ~~C and D~~ and E to assess whether the
316 applicants have been rehabilitated successfully and are not a risk to individuals receiving services based
317 on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for
318 such screening, the applicant shall have completed all prison or jail terms, shall not be under probation
319 or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution,
320 and court costs for any prior convictions, and shall have been free of parole or probation for at least
321 five years for all convictions. In addition to any supplementary information the community services
322 board or screening contractor may require or the applicant may wish to present, the applicant shall
323 provide to the screening contractor a statement from his most recent probation or parole officer, if any,
324 outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in
325 connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless
326 the board decides to pay the cost.

327 ~~F.~~ G. Notwithstanding the provisions of subsection B, a community services board may (i) hire for
328 compensated employment or (ii) permit any person under contract to serve in a direct care position on
329 behalf of the community services board or permit any person employed by a temporary agency that has
330 entered into a contract with the community services board to provide direct care services on behalf of
331 the community services board persons who have been convicted of not more than one misdemeanor
332 offense under ~~§ 18.2-57 or~~ 18.2-57.2, or any substantially similar offense under the laws of another
333 jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense
334 while employed in a direct care position.

335 ~~G.~~ H. Community services boards also shall require, as a condition of employment or permission for
336 any person under contract to serve in a direct care position on behalf of the community services board,
337 written consent and personal information necessary to obtain a search of the registry of founded
338 complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant
339 to § 63.2-1515.

340 ~~H.~~ I. The cost of obtaining the criminal history record and search of the child abuse and neglect
341 registry record shall be borne by the applicant, unless the community services board decides to pay the
342 cost.

343 ~~I.~~ J. Notwithstanding any other provision of law, a community services board that provides services
344 to individuals receiving services under the state plan for medical assistance services or any waiver
345 thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history
346 background check has been completed for a person described in subsection B for whom a criminal
347 history background check is required and (ii) whether the person described in subsection B is eligible
348 for employment.

349 ~~J.~~ K. Any person employed by a temporary agency that has entered into a contract with a community
350 services board and who will serve in a direct care position on behalf of such community services board
351 shall undergo a background check that shall include:

352 1. A criminal history records check through the Central Criminal Records Exchange pursuant to
353 § 19.2-389; and

354 2. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of
355 child abuse and neglect.

356 Except as otherwise provided in subsection C, D, E, or ~~F~~ G, no community services board shall
357 permit any person employed by a temporary agency that has entered into a contract with the community
358 services board to provide direct care services on behalf of the community services board if that person
359 has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime
360 in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in
361 § 19.2-392.02 (a) in the five years prior to the application date for employment, the application date to
362 be a sponsored residential service provider, or entering into a shared living arrangement or (b) if such
363 person continues on probation or parole or has failed to pay required court costs for such offense set
364 forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.