

SENATE BILL NO. 825

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Bell)

A BILL to amend and reenact §§ 22.1-296.1, 22.1-296.2, and 22.1-349 of the Code of Virginia, relating to public schools; background checks; Virginia School for the Deaf and the Blind.

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

**1. That §§ 22.1-296.1, 22.1-296.2, and 22.1-349 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-296.1. Data on convictions for certain crimes and child abuse and neglect required; penalty.**

A. As a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board shall require on its application for employment certification 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 any crime of moral turpitude. Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, in the case of a teacher, upon conviction, the fact of such conviction is grounds for the Board to revoke his license to teach.

B. No school board shall employ any individual who has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

C. Any school board may employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

27 D. Every school board shall also require on its application for employment, as a condition of  
28 employment requiring direct contact with students, whether full-time or part-time, permanent, or  
29 temporary, certification that the applicant has not been the subject of a founded case of child abuse and  
30 neglect. Any person making a materially false statement regarding a finding of child abuse and neglect is  
31 guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction is grounds for the Board  
32 of Education to revoke such person's license to teach.

33 E. As a condition of awarding a contract for the provision of services that require the contractor or  
34 his employees to have direct contact with students on school property during regular school hours or  
35 during school-sponsored activities, the school board shall require the contractor to provide certification of  
36 whether any individual who will provide such services has been convicted of any violent felony set forth  
37 in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual  
38 molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude.

39 Any individual making a materially false statement regarding any such offense is guilty of a Class  
40 1 misdemeanor and, upon conviction, the fact of such conviction is grounds for the revocation of the  
41 contract to provide such services and, when relevant, the revocation of any license required to provide  
42 such services. School boards shall not be liable for materially false statements regarding the certifications  
43 required by this subsection.

44 This subsection shall not apply to a contractor or his employees providing services to a school  
45 division in an emergency or exceptional situation, such as when student health or safety is endangered or  
46 when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it  
47 is reasonably anticipated that the contractor or his employees will have no direct contact with students.

48 F. No school board shall award a contract for the provision of services that require the contractor  
49 or his employees to have direct contact with students on school property during regular school hours or  
50 during school-sponsored activities when any individual who provides such services has been convicted of  
51 any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any  
52 offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

53 G. Any school board may award a contract for the provision of services that require the contractor  
54 or his employees to have direct contact with students on school property during regular school hours or  
55 during school-sponsored activities when any individual who provides such services has been convicted of  
56 any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection  
57 A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a  
58 child, provided that in the case of a felony conviction, such individual has had his civil rights restored by  
59 the Governor.

60 H. For the purposes of this section, "school board" includes the Board of Visitors of the Virginia  
61 School for the Deaf and the Blind, which, for the purpose of receiving criminal history record information  
62 pertaining to an application for employment from the Central Criminal Records Exchange, shall be a  
63 governmental entity.

64 **§ 22.1-296.2. Fingerprinting required; reciprocity permitted.**

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

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

77 To conserve the costs of conducting criminal history record checks to applicants and school boards,  
78 upon the written request and permission of the applicant, a school board shall inform another school board  
79 with which reciprocity has been established, and to which the applicant also has applied for employment,

80 of the results of the criminal history record information conducted within the previous 90 days that it  
81 obtained concerning the applicant. Criminal history record information pertaining to an applicant for  
82 employment by a school board shall be exchanged only between school boards in the Commonwealth in  
83 which a current agreement of reciprocity for the exchange of such information has been established and  
84 is in effect. Reciprocity agreements between school boards shall provide for the apportionment of the costs  
85 of the fingerprinting or criminal records check between the applicant and the school board, as prescribed  
86 in this section. However, school boards that enter into reciprocity agreements shall not each levy the costs  
87 of the fingerprinting or criminal records check on the applicant.

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

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

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

106 D. For the purposes of this section, "school board" includes the Board of Visitors of the Virginia  
107 School for the Deaf and the Blind, which, for the purpose of receiving criminal history record information  
108 pertaining to an application for employment from the Central Criminal Records Exchange, shall be a  
109 governmental entity.

110 **§ 22.1-349. Terms of employment of teachers.**

111 For the purpose of retirement and other statutory benefits, teachers employed as full-time  
112 instructional personnel by the Board of Visitors shall be deemed to be full-time state personnel and shall  
113 receive the same benefits as are accorded all other full-time state personnel. The Board of Visitors shall  
114 require the teachers at the Virginia School for the Deaf and the Blind to comply with the provisions of §§  
115 22.1-298.1, 22.1-299, and 22.1-303. The Board of Visitors shall require any applicant for employment as  
116 full-time instructional personnel or other position requiring as a condition of employment direct contact  
117 with students to submit to a fingerprinting and criminal history record check through the Central Criminal  
118 Records Exchange to the Federal Bureau of Investigation, in accordance with the provisions of §§ 22.1-  
119 296 and 22.1-296.1. The Board of Visitors shall be deemed a governmental entity for the purpose of  
120 receiving from the Central Criminal Records Exchange any criminal history record information pertaining  
121 to an application for employment. Contracts for the employment of teachers shall be in the form prescribed  
122 by the school board of the school division in which the school is located. In cases of nonrenewal of  
123 contracts of probationary teachers, the decisions shall be appealable to the Board of Visitors. For all other  
124 purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia School  
125 for the Deaf and the Blind.

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

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