

HOUSE BILL NO. 1269

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services

on _____)

(Patron Prior to Substitute--Delegate Price)

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.

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 adult mental health treatment program a person who was

27 convicted of any misdemeanor violation of § 18.2-57 or 18.2-57.2 or any violation of § 18.2-89, 18.2-248,
28 18.2-250, or 18.2-258.1, provided that such conviction occurred more than three years prior to the
29 application date for employment. No applicant hired under this subsection shall be subjected to any
30 additional screening or any requirements regarding the applicant's parole status or payment of required
31 court costs.

32 D. Notwithstanding the provisions of subsection B, the Department may hire for compensated
33 employment at an adult substance abuse or adult mental health treatment program a person who was
34 convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or
35 subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-
36 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
37 offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense
38 pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of
39 another jurisdiction, if the Department determines, based upon a screening assessment, that the criminal
40 behavior was substantially related to the applicant's substance abuse or mental illness and that the person
41 has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal
42 history background and his substance abuse or mental illness history. In addition, where the employment
43 at an adult substance abuse treatment program is as a peer recovery specialist, the Department may hire
44 any person eligible under this subsection or who was convicted of any offense set forth in clause (iv) of
45 the definition of barrier crime in § 19.2-392.02 if the Department determines, based upon a screening
46 assessment, that the criminal behavior was substantially related to the person's substance abuse or mental
47 illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving
48 services based on his criminal history background and his substance abuse or mental illness history.

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

52 ~~D.~~E. The Department and a screening contractor designated by the Department shall screen
53 applicants who meet the criteria set forth in subsection ~~C~~D to assess whether the applicants have been

54 rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history
55 backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the
56 applicant shall have completed all prison or jail terms; shall not be under probation or parole supervision;
57 shall have no pending charges in any locality; shall have paid all fines, restitution, and court costs for any
58 prior convictions; and shall have been free of parole or probation for at least five years for all convictions.
59 In addition to any supplementary information the Department or screening contractor may require or the
60 applicant may wish to present, the applicant shall provide to the screening contractor a statement from his
61 most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-
62 sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening
63 shall be paid by the applicant, unless the Department decides to pay the cost.

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

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

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

79 **§ 37.2-416.1. Background checks required; adult substance abuse and mental health services.**

80 A. As used in this section:

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

84 "Hire for compensated employment" does not include (i) a promotion from one adult substance
85 abuse or adult mental health treatment position to another such position within the same licensee licensed
86 pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment
87 position in another office or program licensed pursuant to this article if the person employed prior to July
88 1, 1999, in a licensed program had no convictions in the five years prior to the application date for
89 employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult
90 substance abuse treatment position to any mental health or developmental services direct care position
91 within the same licensee licensed pursuant to this article or (b) new employment in any mental health or
92 developmental services direct care position in another office or program of the same licensee licensed
93 pursuant to this article for which the person has previously worked in an adult substance abuse treatment
94 position.

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

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

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

105 1. Hire for compensated employment any person who has been convicted of (i) any offense set
106 forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set
107 forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the

108 application date for employment or (b) if such person continues on probation or parole or has failed to pay
109 required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-
110 392.02; or

111 2. Allow any person under contract with the provider to serve in a direct care position who has
112 been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in §
113 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02
114 (a) in the five years prior to the application date for employment or (b) if such person continues on
115 probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the
116 definition of barrier crime in § 19.2-392.02.

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

124 C. Notwithstanding the provisions of subsection B, a provider may hire for compensated
125 employment or permit any person under contract with the provider to serve in a direct care position or
126 permit any person employed by a temporary agency that has entered into a contract with the provider to
127 provide direct care services on behalf of the provider at an adult substance abuse or adult mental health
128 treatment program a person who was convicted of any misdemeanor violation of § 18.2-57 or 18.2-57.2
129 or any violation of § 18.2-89, 18.2-248, 18.2-250, or 18.2-258.1, provided that such conviction occurred
130 more than three years prior to the application date for employment. No applicant hired under this
131 subsection shall be subjected to any additional screening or any requirements regarding the applicant's
132 parole status or payment of required court costs.

133 D. Notwithstanding the provisions of subsection B, a provider may hire for compensated
134 employment or permit any person under contract with the provider to serve in a direct care position or

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

153 ~~D.~~E. Notwithstanding the provisions of subsection B, a provider may hire for compensated
154 employment or permit any person under contract with the provider to serve in a direct care position or
155 permit any person employed by a temporary agency that has entered into a contract with the provider to
156 provide direct care services on behalf of the provider at adult substance abuse treatment facilities a person
157 who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially
158 similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon
159 if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the
160 laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring
161 provider determines, based upon a screening assessment, that the criminal behavior was substantially

162 related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not
163 a risk to individuals receiving services based on his criminal history background and his substance abuse
164 history.

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

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

189 if 10 years have elapsed following the conviction, unless the person committed the offense while employed
190 in a direct care position.

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

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

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

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

210 ~~K.~~J. Any person employed by a temporary agency that has entered into a contract with a provider
211 and who will serve in a direct care position on behalf of such provider shall undergo a background check
212 that shall include:

- 213 1. A criminal history records check through the Central Criminal Records Exchange pursuant to §
214 19.2-389; and

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

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

224 **§ 37.2-506.1. Background checks required; adult substance abuse and mental health services.**

225 A. As used in this section:

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

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

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

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

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

265 C. Notwithstanding the provisions of subsection B, the community services board may hire for
266 compensated employment or permit any person under contract to serve in a direct care position on behalf
267 of the community services board or permit any person employed by a temporary agency that has entered

268 into a contract with the community services board to provide direct care services on behalf of the
269 community services board at an adult substance abuse or adult mental health treatment program a person
270 who was convicted of any misdemeanor violation of § 18.2-57 or 18.2-57.2 or any violation of § 18.2-89,
271 18.2-248, 18.2-250, or 18.2-258.1, provided that such conviction occurred more than three years prior to
272 the application date for employment. No applicant hired under this subsection shall be subjected to any
273 additional screening or any requirements regarding the applicant's parole status or payment of required
274 court costs.

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

294 receiving services based on his criminal history background and his substance abuse or mental illness
295 history.

296 ~~D-E.~~ Notwithstanding the provisions of subsection B, the community services board may hire for
297 compensated employment or permit any person under contract to serve in a direct care position on behalf
298 of the community services board or permit any person employed by a temporary agency that has entered
299 into a contract with the community services board to provide direct care services on behalf of the
300 community services board at adult substance abuse treatment programs a person who has been convicted
301 of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under
302 the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a
303 felony committed in Virginia, or the equivalent if the person was convicted under the laws of another
304 jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community
305 services board determines, based upon a screening assessment, that the criminal behavior was substantially
306 related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not
307 a risk to individuals receiving services based on his criminal history background and his substance abuse
308 history.

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

320 felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to
321 pay the cost.

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

330 ~~G. Community services boards also shall require, as a condition of employment or permission for~~
331 ~~any person under contract to serve in a direct care position on behalf of the community services board,~~
332 ~~written consent and personal information necessary to obtain a search of the registry of founded~~
333 ~~complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to~~
334 ~~§ 63.2-1515.~~

335 ~~H. G.~~ The cost of obtaining the criminal history record and search of the child abuse and neglect
336 registry record shall be borne by the applicant, unless the community services board decides to pay the
337 cost.

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

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

347 1. A criminal history records check through the Central Criminal Records Exchange pursuant to §
348 19.2-389; and

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

351 Except as otherwise provided in subsection C, D, or ~~EE~~, no community services board shall permit
352 any person employed by a temporary agency that has entered into a contract with the community services
353 board to provide direct care services on behalf of the community services board if that person has been
354 convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-
355 392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in
356 the five years prior to the application date for employment, the application date to be a sponsored
357 residential service provider, or entering into a shared living arrangement or (b) if such person continues
358 on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of
359 the definition of barrier crime in § 19.2-392.02.

360 #