



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF SOCIAL SERVICES

**DATE:** June 30, 2017

**TO:** Licensed Child Day Centers  
Licensed Family Day Homes  
Voluntarily Registered Family Day Homes  
Licensed Family Day System  
Religious Exempt Child Day Centers  
Certified Preschools  
Unlicensed Child Day Programs Receiving Child Care Subsidy Assistance

**FROM:** Charlene Vincent, Director  
Division of Licensing- Children's Programs

**SUBJECT:** Barrier Crimes Legislation, Senate Bill 1008

This memo will inform you of changes in legislation concerning barrier crimes that passed in the 2017 Virginia General Assembly session.

### What does it mean to have a barrier crime?

A barrier crime conviction prohibits a person from working with children. When a person applies for a license or to work or volunteer with a child day program, that person must complete a background check. If a person has a barrier crime conviction, that person will not be allowed to have a license or work or volunteer with children.

Family Day Home providers are not allowed to be licensed, registered, or approved for subsidy if a household member has a barrier crime.

### What does Senate Bill 1008 do?

Senate Bill 1008 is legislation that affects the Code of Virginia concerning barrier crimes. The legislation goes into effect July 1, 2017.

Below is a list of changes to the law:

- The list of barrier crimes and references to barrier crimes was moved from § 63.2-1719 to § 19.2-392.02 of the Code of Virginia.
- New barrier crimes have been added to the list including violent crimes and crimes listed on the Sex Offender and Crimes against Minors Registry.
- Barrier crimes now include any substantially similar offenses under the laws of another jurisdiction; meaning convictions that took place in another state.

How will this change affect me?

Any criminal background checks requests after July 1, 2017 must be screened using the new list of barrier crimes which contain additional offenses. Providers do not need to rescreen current employees and volunteers against the new list. However the updated barrier crimes list must be used for any repeat background checks beginning July 1, 2017.

As a reminder, no child day program shall hire, continue to employ, or permit to serve as a volunteer any person with a barrier crime conviction listed in § 19.2-392.02 of the Code or a founded complaint of child abuse or neglect.

Unless a waiver has been granted, family day home providers will not be licensed or registered or continue to be licensed or registered if household members have barrier crime convictions.

Are there any exceptions for barrier crimes?

There is one exception for employees in **child day centers**, found in § 63.2-1720.1 of the Code of Virginia, that says the center may hire a person who has been convicted of not more than one misdemeanor offense of assault and battery if 10 years has passed since the conviction. Assault and battery is a barrier crime. The change in the law now includes any substantially similar offense from another state. This means that a person could meet this barrier crime exception if they had one conviction of assault and battery 10 or more years ago in Virginia or out of state, as long as the victim of the assault was not a minor and the person wasn't employed in a child day center when they got the conviction.

There are no other exceptions. If anyone has a barrier crime they are not permitted to work with children.

Is there a barrier crimes list and where do I find it?

The Department of Social Services will send out and post the list of barrier crimes once it has been approved by the Attorney General's Office. Until the new lists are posted, please use § 19.2-392.02 of the Code of Virginia to see the listing of barrier crimes.

The Virginia Sex Offender Registry can be found at <http://sex-offender.vsp.virginia.gov/sor/index.html>; click on the left hand panel 'Search the Sex

Offender Registry'. Offenses that require registration can be found at <http://sex-offender.vsp.virginia.gov/sor/statutes.html>.

Please contact your licensing inspector if you have any questions. If you do not have an assigned inspector, please contact your regional licensing office at [http://www.dss.virginia.gov/contact\\_us/dolp\\_district\\_children.pdf](http://www.dss.virginia.gov/contact_us/dolp_district_children.pdf).