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ADULT SERVICES APPROVED PROVIDERS

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ADULT SERVICES APPROVED PROVIDERS

5.1 Legal basis

Legal authority and requirements for Adult Services Providers are based in the Code of Virginia and state regulation (22 VAC 30-120). Throughout this section, text that is indented with a blue vertical line denotes material taken verbatim from the Code or the Department's regulations.

This *chapter* describes policies and procedures for providers of services to adults who are approved by the local department of social services (LDSS) *including*:

- *In-home providers (companion, chore, and homemaker providers).*
- Adult foster care (AFC).

This guidance does not apply to facilities or organizations licensed or regulated by the Virginia Department of Health. (22 VAC 30-120-20).

Approval of a provider for more than one type of care is permitted. The requirements applicable to each specific type of care provided shall be met.

5.2 Definitions

The following words and terms are defined in the Code of Virginia or state regulation (22 VAC 30-120-10) unless otherwise specified. When used in this section, they shall have the following meaning, unless the context clearly indicates otherwise.

<u>Term</u>	<u>Definition</u>
Activities of Daily Living or ADLs	Bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. A person's degree of independence in performing these activities is part of determining the appropriate level of care and services.
Adult	Any individual 18 years of age or over, <i>or younger than 18 if legally emancipated.</i>
Adult Abuse	The willful infliction of physical pain, injury, or mental anguish or unreasonable confinement of an adult as defined in 63.2-1603 (§ 63.2-100 of the Code of Virginia).
Adult Exploitation	The illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or perform such services. (§ 63.2-100 of the Code of Virginia).
Adult Foster Care	Room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.
Adult Foster Care Provider	A provider who gives room and board, supervision, and special services in <i>the provider's own home to an adult with a physical or mental condition. Adult foster care may be provided by a single provider</i> for up to three adults. Care provided for more

<u>Term</u>	<u>Definition</u>
	than three adults requires licensure <i>as an assisted living facility by the Virginia Department of Social Services.</i>
Adult Neglect	An adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult (§ 63.2-100 of the Code of Virginia).
Assistant	Any individual who is responsible to assist adult services approved provider in caring for adult. Assistants shall meet the <i>same requirements the standards set forth in this chapter.</i>
Chore Provider	A provider who performs non-routine, heavy home maintenance tasks for adults, <i>including</i> minor repair work on furniture and appliances in the adult's home; carrying coal, wood, and water; chopping wood; removing snow; yard maintenance; and painting.
Companion Provider	A provider who assists <i>adults with</i> activities such as light housekeeping, companionship, shopping, meal preparation, transportation, household management, and <i>ADLs</i> .
Department	The Virginia Department for Aging and Rehabilitative Services.
Health Care Professional	<i>A physician or other health care practitioner licensed, accredited, or certified to perform specific health care services consistent with the laws of the Commonwealth.</i>
Homemaker Provider	A provider who gives instruction in or, where appropriate, performs activities such as personal care, home management, household maintenance, and nutrition, consumer, or hygiene education.

<u>Term</u>	<u>Definition</u>
In-Home Provider	An individual who provides care in the home of the adult. In-home providers <i>are</i> companion, chore, and homemaker providers.
Instrumental Activities of Daily Living or IADLs	Meal preparation, <i>light</i> housekeeping, shopping, <i>money management</i> , laundry, using the telephone, <i>and home maintenance</i> . An <i>adult's</i> degree of independence in performing these activities is part of determining an <i>adult's service needs</i> .
Local Department	The local department of social services of any county or city in this Commonwealth.
Local Department-Approved Provider	A provider that is not subject to licensure by <i>the Virginia Department of Health</i> and is approved by to provide services to clients.
Personal Care Services	The provision of non-skilled services <i>to the adult</i> , including ADLs, and may include IADLs, to maintain the adult <i>safely</i> in <i>the adult's</i> home.
Personal Toiletries	<i>Hygiene items provided to the individual by the adult foster care provider, including deodorant, razor, shaving cream, shampoo, soap, toothbrush, and toothpaste.</i>
Responsible Person	An individual who is authorized <i>by state law</i> to make decisions concerning the adult and to receive information about the adult.
Significant Change	<i>A change in an adult's condition that is expected to last longer than 30 calendar days. It does not include short-term changes that resolve with or without intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition for which an appropriate course of treatment is in progress.</i>

5.3 Provider applications

(22 VAC 30-12-20). The local department *may* accept provider applications *even* when the local department has a sufficient number of *approved* providers for that service or does not

offer the type of service. *If the local department chooses to contract with an agency or organization licensed or regulated by the Virginia Department of Health to provide in-home providers, the local department shall inform the provider applicant of the local department's choice to contract with a licensed or regulated agency or organization. However, if the local department approves its own providers and the adult identifies an individual to be a provider, the local department shall initiate the approval process for that individual as long as the service is offered by that locality. The individual identified by the adult shall meet the standards set forth in this chapter.*

5.4 Jurisdiction for approval of providers

Prior to approving an *adult foster care* provider that is not approved by the local department where the provider is located, the local department wanting to approve the provider shall seek written permission from the local department in the jurisdiction where the *adult foster care* provider is located.

Local departments may use an approved *in-home or adult foster care* provider from another jurisdiction without *initiating the approval process* when the local department obtains written permission and a copy of the approval documents from the local department that *approved the in-home or adult foster care provider*.

5.5 Requirements for providers and providers' households

5.5.1 Age

(22 VAC 30-120-30). All local department-approved providers shall be at least 18 years of age.

Any assistant to a local department-approved shall be at least 18 years of age.

5.5.2 Criminal record background checks

(22 VAC 30-120-30). *An individual applying to become an in-home or adult foster care provider shall identify any criminal convictions and consent to a criminal record search. The local department shall obtain criminal history record information from the Central Criminal Records Exchange of any individual the local department is considering approving as an in-home or adult foster care provider. The local department may also obtain a criminal records search on all adult household members residing in the home of*

an individual the local department is considering approving as an adult foster care provider. A new criminal record background check shall be required at the time of provider renewal.

Pursuant to 22 VAC 30-120-30, any individual convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia is prohibited from being approved as an LDSS approved provider. Additionally, a conviction of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia will result in revocation of the in-home or AFC provider's approval. The LDSS shall terminate the provision of services by an in-home provider or the adult shall be removed from the AFC home immediately if an adult in the home has been convicted of any offense set forth in clause (i) of the definition of barrier crime in 19.2.392.02 of the Code of Virginia.

5.5.2.1 Identifying criminal convictions

The "Application for Department Approved Provider" requires the provider to identify any criminal convictions.

5.5.2.2 Central Criminal Records Exchange – all providers

Virginia State Police maintain criminal history record information for arrests and convictions in Virginia. Section 19.2-389 of the Code of Virginia authorizes the LDSS to request criminal history for all LDSS approved providers directly from the Virginia State Police through the Central Criminal Records Exchange. SP-230 is the State Police form to use when requesting this information on Virginia criminal convictions. Instructions are available on the Virginia State Police website.

SP-230 may be downloaded or an electronic form may be submitted directly from the website. The payment for criminal records checks is made through the Administrative Budget Line (BL) 855.

The LDSS should consider establishing a payment account with the State Police to use the electronic submission form.

5.5.2.2.1 National criminal background check

The Virginia State Police can also conduct a national criminal background check for employees or volunteers providing care to elderly individuals and individuals with a disability using form SP-325 available on the Virginia State Police website. One applicant fingerprint card (FD-258) must be completed and attached to this form. The Virginia State Police or local law enforcement

may be contacted for information about the fingerprint card. Search fees *may be paid through BL 855*.

5.5.2.3 Information received from the Central Criminal Record Exchange

- If no record exists on the individual, the Central Criminal Records Exchange will stamp and return the form to indicate this.
- If a record exists, the information furnished will include identifying information, contributing agency, date of occurrence, charge, and disposition.
- Information on providers and all household members will only include information on convictions.
- The Central Criminal Records Exchange will provide information concerning offenses enumerated in § 19.2-392.02. It does not contain information on certain offenses such as driving a motor vehicle while intoxicated; disorderly conduct; trespassing; and some misdemeanors (such as gambling, slander, etc.).

5.5.2.4 Determining when *other* criminal convictions jeopardize adults

Pursuant to 22 VAC 30-120-30, if the provider or, for AFC, the assistant, spouse of the provider, or other household members who come into contact with adults in care, has been convicted of other felony or misdemeanor that, in the judgement of the LDSS jeopardizes the safety or proper care of adults, the provider is prohibited from being approved as a provider. The LDSS will need to exercise judgment in the approval or denial of providers when convictions of other felonies and misdemeanors not listed in §19.2-392.02 are found. The provider record should document the reasons for the approval or denial. No denial may be based solely on arrest information where no conviction has been made.

5.5.2.5 Confidentiality of criminal record information

Criminal record information can only be used for the purpose intended. It shall not be shared with anyone other than the individual identified in the record. For example, conviction information on a household member cannot be shared with the provider. However, the provider could be told that he or she is being denied because this requirement is not met.

(§ 63.2-1601.1). If approval as an agency approved provider is denied because of information obtained through a Central Criminal Records Exchange search, the local board, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Further dissemination of the criminal history record information is prohibited.

5.6 Interviews, references, employment history, and assessment

5.6.1 Interviews – all providers

(22 VAC 30-120-30). The provider shall participate in interviews with the local department.

5.6.1.1 AFC providers

(22 VAC 30-120-30). For adult foster care *providers*, at least one interview shall occur in the home where the care is to be provided. All adult household members shall be interviewed to ensure that they understand the demands and expectations of the care to be provided.

5.6.2 References – all providers

(22 VAC 30-120-30). The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider.

The LDSS may request more than two (2) references.

5.6.2.1 Follow-up

- The LDSS shall check references for the initial approval. References do not need to be rechecked at renewal.
- The LDSS may contact references by telephone, face-to-face interview, or request a reference in writing. References which are not written shall be documented in the provider record by the worker. A sample format for reference questions is *available on the DSS intranet*.

5.6.3 Employment history – all providers

(22 VAC 30-120-30). The provider shall provide information on the provider's employment history.

5.6.3.1 Application

The provider shall list previous employment on the Application for Department Approved Provider.

5.6.3.2 Follow-up

The LDSS shall check employment *history* that is relevant to the type of care to be provided at initial approval. The LDSS may wish to check other employment *history* to assess the prospective provider's knowledge, skills and abilities. The LDSS may check employment *history* by telephone, face-to-face interview, or through written verification.

5.6.3.3 Additional requirements

The LDSS may further evaluate the applicant to ensure that he or she is able to meet the demands of providing the services.

(22 VAC 30-120-30). The provider shall have the capability to ~~fully~~ perform the requirements of the position, have the moral and business integrity and reliability to ensure good faith performance and be determined by the local department to meet the requirements of the position.

5.6.4 Assessment of provider – all providers

(22 VAC 30-120-30). The local department shall use the interviews, references, and employment history to assess that the provider is:

- a. Knowledgeable of and physically and mentally capable of providing the necessary care for adults;
- b. Able to sustain positive and constructive relationships with adults ~~in care~~, and to relate to adults with respect, courtesy, and understanding;
- c. Capable of handling emergencies with dependability and good judgment; and
- d. Able to communicate and follow instructions sufficiently to ensure adequate care, safety, and protection for adults.

5.6.4.1 Additional requirement for AFC providers

(22 VAC 30-120-30). For adult foster care providers, the local department shall further use the interview, references, and employment history to assess that the provider has sufficient financial income or resources to meet the basic needs of the *adult foster care provider's* own family and has the knowledge, skills, and abilities to care for adults, including,

- a. Provision of a furnished room in the home that meets applicable zoning, building, and fire safety codes.
- b. Housekeeping services based on the needs of the adult.
- c. Nutritionally balanced meals and snacks, including extra portions and special diets as necessary.
- d. Provision of clean bed linens and towels at least once a week and as needed by the adult.
- e. Assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional bladder or bowel incontinence.
- f. Provision of generic personal toiletries.
- g. Assistance with the following: care of personal possessions; care of personal funds if requested by the adult and adult foster care home's policy permits it; use of telephone; arranging transportation; obtaining necessary personal items and clothing; making and keeping appointments; and correspondence.
- h. Securing health care and transportation when needed for medical treatment.
- i. Providing social and recreational activities as required by the local department.
- j. General supervision for safety.

The purpose of this assessment is to determine that the AFC provider is not relying on the AFC payment as income to support his or her family. The payment is to support the adult. It is not taxable income to the provider.

This requirement can be addressed during the interview by determining how the provider is able to pay his or her personal bills.

5.6.4.2 Additional requirements for homemaker providers

(22 VAC 30-120-30). For homemaker providers, the local department shall further use the interview, references, and employment history to assess that the provider has knowledge, skills, and ability, as appropriate, in:

- a. Home management and household maintenance;
- b. The types of personal care of the elderly or adults with a disability permitted by regulation;
- c. Nutrition education and meal planning and preparation, including special diets; and
- d. Personal hygiene and consumer education.

5.7 Training – all providers

(22 VAC 30-120-30). The local department shall provide ~~some~~ basic orientation to any approved provider.

The provider shall attend any orientation and training required by the local department. The provider shall bear the cost of any required training unless the local department subsidizes the cost for all local department-approved providers.

5.8 Medical requirements – all providers

(22 VAC 30-120-30). The provider and assistant shall submit the results of a physical and mental health examination when requested by the local department.

- If the LDSS needs verification to determine if the provider is physically or mentally capable of providing the necessary care for adults, the LDSS should request an examination.
- The physical or mental health examination may be paid by the LDSS as an administrative cost if not covered by any other insurance program.

5.8.1 Tuberculosis *statement*

(22 VAC 30-120-30). The *in-home* provider, *an* assistant, *the adult foster care provider*, and all other adult household members *in the adult foster care home* who come in contact with adults ~~in~~ *receiving* care shall submit a statement from *a health care professional* that *the individual submitting the statement* is believed to be free of tuberculosis in a communicable form.

- The statement shall indicate that the individual is free from tuberculosis in a communicable form. This does not mean that the actual test shall be performed; a risk assessment is permitted. The Request for Tuberculosis Statement form is available on the DSS intranet and may be used to obtain the statement.
- After initial approval, a statement regarding tuberculosis does not need to be obtained again unless the individual has contact with someone who has tuberculosis or develops chronic respiratory symptoms (more than four weeks in duration).
- If the individual was tested for tuberculosis within the past year, a new test does not need to be performed as long as the statement is obtained.
- The cost of any tuberculosis test may be paid by the LDSS as an administrative cost if not covered by any other insurance program.

If the individual is not believed to be free of tuberculosis in a communicable form, the individual may not provide services to adults, assist with the adult's care, or live in the same household.

5.9 Changes in household

(22 VAC 30-120-30). All *adult foster care* providers shall *notify* the local department *within one business day* of changes in the household *composition* that may affect approval of the provider.

5.10 Requirements for care

The following sections describe the requirements for all providers.

5.10.1 Non-discrimination

(22 VAC 30-120-40). The provider shall provide care that does not discriminate on the basis of race, ethnicity, sex, national origin, age, religion, disability, or impairment.

5.10.2 Supervision

(22 VAC 30-120-40). The provider shall have a plan for seeking assistance from police, *the fire department*, and medical professionals in an emergency.

A responsible adult or an approved assistant shall always be available to provide appropriate care for the adult in case of an emergency.

The provider shall ensure that adequate care and supervision is provided to ~~adults in care~~ *each adult* and that the adult's health, safety, and well-being are protected.

The provider shall notify the local department within 24 hours of any significant changes in the adult's mental or physical condition.

5.10.3 Extended absence-AFC

(22 VAC 30-120-40). *The adult foster care provider shall inform the local department prior to an extended absence. An extended absence shall be defined as greater than one calendar day. Each adult foster care provider shall identify to the local department a substitute provider who will provide care during the adult foster care provider's extended absence. Each substitute provider shall also meet the standards set forth in this chapter.*

5.11 Food – AFC

(22 VAC 40-120-40). The following standards apply to food provided to *adults* by adult foster care providers:

1. Adults shall receive nutritionally balanced meals and snacks appropriate to the length of time in care each day, the daily nutritional needs of each adult, *and the time of day care is provided.*
2. Adults in care shall receive special diets if prescribed by a *health care professional* or in accordance with religious or ethnic requirements, the adult's preferences, or other special needs.

3. Adequate drinking water shall be available at all times.

Adults in *AFC* who are receiving an *Auxiliary Grant* shall receive a minimum of three well-balanced meals a day (22 VAC 30-80-30).

5.12 Clothing – AFC

(22 VAC 30-120-40). The adult foster care provider shall ensure that adults in care have adequate, properly fitting, and seasonal clothing and that all clothing is properly laundered or cleaned and altered or repaired as necessary.

5.13 Transportation-all providers

(22 VAC 30-120-40). 1. *As part of the service, only the approved provider or assistant shall provide transportation for the adult and shall have a valid driver's license and automobile liability insurance. When the approved provider or assistant is unable to provide transportation for the adult, the approved provider shall coordinate and assist the adult in obtaining backup transportation.*

2. The vehicle used to transport adults shall have a valid license and inspection sticker.

3. *The vehicle operator shall ensure that all passengers use safety belts in accordance with Virginia law.*

- *If the vehicle is uninsured, the motor vehicle owner is required to pay \$500 uninsured motor vehicle fee in addition to normal registration fees to Department of Motor Vehicles. Payment of the \$500 fee does not provide the motorist with any insurance coverage and does not meet the automobile liability insurance requirement.*
- Transportation costs of any provider are not *separately reimbursable* through *BL 833*.

5.14 Medical care – all providers

(22 VAC 30-120-40). 1. The provider shall have the name, address, and telephone number of each adult's *health care professional* and responsible person easily accessible.

2. The provider shall be able to meet the identified needs of the adult *as assessed by the local department* before *providing services or continuing* to provide services to the adult.

5.14.1 Medical care – AFC provider

(22 VAC 30-120-40). The adult foster care provider *shall not administer medications. The adult foster care provider shall:*

- a. Ensure that the adult receives prescription *medications* only in accordance with the prescription label and with the *adult's* responsible person's written consent, as *applicable*;
- b. Document all medications taken by adults, including over-the-counter medications;
- c. Ensure that the adult receives *over-the-counter medications* only with the adult's or *adult's* responsible person's written consent, as *applicable*;
- d. Keep medications separate from food except those items that *must* be refrigerated;
- e. Report all major injuries *to* and accidents *experienced by the adult to the local department and* adult's responsible person immediately;
- f. Have authorization for emergency medical care for each adult ~~in care~~; and
- g. Have first aid supplies easily accessible in case of accidents.

5.14.2 Additional requirement for AFC providers

(22 VAC 30-120-40). Admission or *continued residence* of adults in an adult foster care home is prohibited when the adult's care needs cannot be met by the provider as determined by the assessment of the *local department* or by the adult's *health care professional*.

5.15 Activities –AFC

(22 VAC 30-120-40). The adult foster care provider shall provide recreational and other planned activities appropriate to the needs, interests, and abilities of the adults.

5.16 Physical accommodations in AFC home

(22 VAC 30-120-50). Physical accommodations requirements include:

1. The home shall have appropriate space and furnishings for each adult receiving care *including*:
 - a. Space to keep clothing and other personal belongings;

- b. Accessible and adequate basin and toilet facilities;
 - c. Comfortable sleeping or napping furnishings;
 - d. For adults unable to use stairs unassisted, sleeping space on the first floor of the home;
 - e. Adequate space for recreational activities; and
 - f. Sufficient space and equipment for food preparation, service, and proper storage.
- 2. All rooms used by adults shall be heated in winter, dry, and well-ventilated.
 - 3. All doors and windows used for ventilation shall be appropriately screened.
 - 4. Rooms used by adults ~~in care~~ shall have adequate lighting for activities and the comfort of adults.
 - 5. *The home shall have a working telephone that the adult shall be permitted to use.*
 - 6. The home shall be in compliance with all local ordinances.
 - 7. Additional standards for adult foster care include:
 - a. No more than two adults shall share a sleeping room unless they request, *or if applicable, each adult's responsible person requests and annually consents in writing, which includes by electronic mail*, to sharing such a sleeping arrangement.
 - b. There shall be space in the household for privacy outside of the sleeping rooms for the adult to entertain visitors and talk privately.
 - c. *There shall be at least one toilet, one basin, and one tub or shower for every five persons residing in the home.*

5.17 AFC home safety

(22 VAC 30-120-50). Home safety requirements include:

- 1. The home and grounds shall be free from litter and debris and present no *safety* hazards.
- 2. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the *local department* requests it.

3. The provider shall have a written emergency plan that includes, fire *and* natural disaster. *The provider shall rehearse the plan at least twice a per year and review the plan with each new adult admitted to the home. The written plan shall be provided to the local department upon request.*
4. *The provider shall ensure the adult can be safely evacuated from all living spaces during an emergency. The provider shall include emergency evacuation procedures in the written emergency plan and shall consider the adult's ability to ambulate during an emergency.*
5. Possession of any weapons, including firearms, in the home shall be in compliance with federal, state, and local laws and ordinances. The provider shall store all weapons, firearms, and ammunition *owned by the provider or other household members in a manner that prohibits access by the adult. If the provider permits an adult to possess weapons, firearms, or ammunition in the home, the provider shall have a written policy detailing such permissions, and the provider shall require the adult to safely store all weapons, firearms, or ammunition. The provider may have a written policy prohibiting all weapons, firearms, and ammunition in the home, and the provider may choose not to accept into care an adult if the adult possesses weapons, firearms, or ammunition.*
6. The provider shall protect adults from household pets that may be a health or safety hazard. Household pets shall be inoculated as required by state or local ordinances. Documentation of inoculations shall be made available upon local department request.
7. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of adults *receiving care*.
8. The provider shall provide and maintain at least one approved, properly installed, and operable battery-operated smoke detector, at a minimum, in each sleeping area and on each additional floor. Existing installations that have been approved by the state or local fire marshal are exempted from this requirement.

5.17.1 Fire and safety inspections

- Each LDSS should determine the appropriate local authority to inspect for safety hazards and may wish to develop an internal guide based on direction from that authority. See *the sample request for fire inspection form on the DSS intranet*.
- The LDSS may wish to do the following prior to requesting a safety inspection:
 - Observe if there are any overloaded electrical wall outlets.

- *Observe* if there is any deteriorated insulation on electrical equipment.
- Inquire if the furnace is serviced regularly.
- Observe if any wood stove is on a non-combustible surface and combustibles are at least three feet away.
- Inquire if the chimney flue is lined and cleaned regularly.
- Inquire if a permit was obtained for any liquid propane (LP) gas heater.
- Observe if there is any accumulation of grease around the range or oven.
- Observe if there is excessive trash, old rags, or other combustibles lying around.

5.18 Sanitation – AFC home

(22 VAC 30-120-50). Sanitation requirements include:

1. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the local department requests it.
2. The home and grounds shall be free of garbage, debris, insects, and rodents that would present a hazard to the health of *adults*.

5.18.1 Water testing fee

The usual and customary fee for water testing established by the *local health department* applies. This fee may be paid *from BL 855*.

5.19 AFC home capacity

(22 VAC 30-120-50). Capacity standards include:

1. The provider shall not exceed the maximum allowable capacity for the type of care provided and approved by the local department.
2. The adult foster care provider shall not accept more than three adults for the purpose of receiving room, board, supervision, or special services, regardless of relationship of any adult to the provider.

5.19.1 AFC provider providing more than one type of care

The LDSS shall carefully evaluate an AFC provider who requests to provide more than one type of care (e.g. child foster care and AFC) to ensure the provider is able to meet the needs of the individuals receiving care.

5.20 AFC provider record requirements

(22 VAC 30-120-60). A. The provider shall maintain written, legible, *and current* information on each adult ~~in~~ *receiving* care.

B. Information on the adult ~~in care~~ shall include:

1. *The adult's identifying* information;
2. Name, address, and home and work telephone numbers of *the adult's* responsible persons;
3. Name and telephone number of person to be called in an emergency *if the adult's* responsible person cannot be reached;
4. Name, address, and home and work telephone numbers of persons authorized *to transport* ~~pick-up~~ the adult;
5. Name of persons not authorized to call or visit the adult;
6. Date of admission and discharge of the adult;
7. *Pertinent medical* information;
8. Correspondence related to the adult as well as other written information *about the adult* provided by the local department; and
9. Placement agreement between the provider and the adult and *the adult's* responsible person, *if* applicable.

C. *All* records are confidential and shall not be shared without the approval of the adult or *the adult's* responsible person, *except as required under federal or state law*.

D. The local department shall have access to all records.

E. The department shall have access to all records.

5.20.1 Confidentiality

When the adult leaves the home, the LDSS may request that certain information be returned to the LDSS, the adult, or *the adult's responsible person* to accompany the individual to his or her next placement.

5.21 Provider approval – all providers

5.21.1 Approval period

(22 VAC 30-120-70). The approval period for *all providers* may be up to 24 months when the provider meets the standards.

5.21.2 Application

- An Application for Department Approved Provider shall be completed by each applicant provider for the initial approval. It is not necessary for a renewal.
- The application, once received by the LDSS, should be acted upon as quickly as possible.
- A copy of the requirements should be given to each applicant provider.

5.21.3 Compliance form

A Compliance Form for Department Approved Provider (Parts A & B) should be completed for each applicant provider at the initial approval/denial determination and for each provider at each renewal. Part B of this form is only applicable to the *AFC provider*.

5.21.4 Certificate of Approval

The LDSS should *issue* a Certificate of Approval to the provider when the provider is approved.

5.21.5 Expiration of approval period

The expiration date for the approval period should be the last day of the month in which approval is granted *plus two years* unless the approval is emergency, provisional, or suspended.

5.21.6 Notification

The applicant provider or provider shall receive written notification **within 10 working days** regarding *the LDSS's decision* on the *initial* application or at renewal. *The issuance of a Certificate of Approval is adequate written notice for approved providers. See the DSS intranet for a sample denial letter.*

5.22 Allowable variance

(22 VAC 30-120-80). A. *The grant or denial of a variance is within the discretion of the local department. The provider may request a variance on a standard if the variance does not jeopardize the safety and proper care of any adult or prospective adult receiving care or violate federal, state, or local law and the local department approves the request.*

B. *The allowable variance, if granted by the local department, shall be documented in writing with a copy maintained by the local department and the provider.*

C. *The local department and the provider shall develop a plan to meet the applicable standard for which the allowable variance has been granted.*

D. *The allowable variance shall be requested and granted by the local department prior to the approval of the provider or at the time of the provider's renewal.*

5.22.1 Requesting a variance

- *It is the provider's responsibility to initiate the process to request a variance. The LDSS may assist the provider in preparing the written request for a variance request for LDSS review.*
- The *request for a variance* should specify, at a minimum:
 - The type of provider.
 - What specific reasons or circumstances exist in the situation that justify requesting the variance.
 - The requirement(s) for which a variance is requested.
 - What efforts have been/will be made to meet the requirement(s).
 - The length of time for which a variance is requested.

- What precautions are being taken to ensure the safety and protection of the adults in care while the variance is in effect.

5.22.2 Approval or denial of a variance

If the LDSS approves the variance, the decision will indicate the length of time for which the variance is granted. *The approval for a variance shall be signed by the director or the director's designee.*

A copy of the variance request and LDSS' decision will be maintained in the provider's record.

5.23 Emergency approval of a provider

(22 VAC 30-120-90). A. Emergency approval of a provider may be granted under the following conditions:

1. The court orders emergency placement; or
2. The adult or *the adult's* responsible person requests placement or service in an emergency.

B. *For emergency approval of an adult foster care provider*, the local department shall visit the provider's home *prior to the emergency placement* to ensure that minimum safety standards are evident and that the provider is capable of providing care *for the adult*.

C. *For emergency approval of an in-home provider*, the local department shall interview the provider to ensure that the emergency provider is capable of providing the needed services.

D. *Emergency approval of a provider shall not exceed 30 calendar days.*

5.23.1 Criminal history information

The LDSS shall request criminal history information *pursuant to* Section 5.5.2.

5.23.2 Action after 30 days

The provider must meet all applicable standards if services are to be provided beyond the 30-day emergency approval (22 VAC 30-120-90).

5.23.3 Denial of approval

Emergency approval may be denied by the LDSS if the *in-home* provider or the AFC home does not meet minimum standards. The LDSS reviewing the request for

approval shall indicate the reason for the denial of the emergency approval on the Compliance Form.

5.23.4 Notification

The approval or denial of the emergency application shall be in writing and given to the adult and the prospective provider. See *DSS intranet* for an example of an emergency approval or denial letter.

5.24 Provider monitoring

(22 VAC 30-120-100). A. For adult foster care providers, the local department shall visit the home of the provider as often as necessary, but at least semi-annually to monitor the performance of the provider.

B. For *in-home* providers, the local department shall interview the provider face-to-face as often as necessary, but at least semi-annually, to monitor the performance of the provider. *At least one monitoring visit shall occur in the home of the adult who is receiving care.*

C. Provider monitoring shall include interviews with adults receiving care from the provider.

D. The adult or *the adult's* responsible person shall have access to all provider monitoring reports *for that specific adult and that adult's provider* upon request.

- The purpose of the monitoring visits/interviews is to allow the LDSS staff to determine the provider's compliance with applicable standards. If the provider had difficulty meeting a particular standard, this should be checked at the monitoring contact. It is not intended to be a reexamination of all standards.
- *The appropriate LDSS supervisor decides how and by which LDSS staff monitoring visits will be conducted.*
- Monitoring visits shall be documented on the Compliance Form for Department Approved Provider or in a provider narrative maintained in the provider's record.

5.25 Renewal process

(22 VAC 30-120-110). The local department shall reapprove the provider prior to the end of the approval period if the provider continues to meet the standards, *and if the local department continues to offer the service.*

The following areas do not need to be reexamined unless the LDSS feels there is a need:

- Application (no renewal application is necessary).
- Tuberculosis Statement.
- References.
- Employment History.

The Compliance Form for Department Approved Provider shall be completed to document the initial approval and each renewal.

5.26 Provider requirements at renewal

A provider in good standing *at renewal*:

- Has the capability, in all respects, to perform fully the requirements of an LDSS approved provider.
- Has the moral and business integrity and the reliability that will assure good faith performance.
- Has been approved by the LDSS as meeting the requirements for the type of provider the individual applies or is approved to be.
- *Has* a satisfactory record of performance, including providing services in a timely manner, being present to provide care when assigned, and having no legitimate complaints from the adult in care about the care and services received.
- *Complies* with the required performance of job duties.
- *Has* the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the requirements of the position, as needed.
- *Has* no active allegation(s) of adult abuse, neglect, or exploitation made against him or her. In this case, it is within the purview of the LDSS to find a substitute provider until the allegation(s) has been resolved; a substantiated *Adult Protective Services* (APS) allegation shall be used as a basis for revocation of the approval of the provider or denial of the applicant.
- *Has* satisfactory monitoring assessments completed by the LDSS indicating that quality work is performed according to the vendor agreement with the LDSS.

- Provides documentation to verify that services were provided to the adult as agreed.

The provider who does not meet these requirements shall be considered to no longer be in good standing as a provider. In such case, the LDSS has the authority to grant provisional approval, suspend approval, or revoke approval.

5.27 Inability of the provider to meet requirements

(22 VAC 30-120-120). If the provider cannot meet the standards *set forth in this chapter*, the local department shall grant provisional approval, suspend approval, or revoke approval, depending on the duration and nature of noncompliance.

The provider shall be given the opportunity to correct any non-compliance issues and be reassessed by the LDSS, at which time the provider approval may be reinstated as being in good standing with or without a variance, suspended, or revoked.

5.27.1 Provisional approval

(22 VAC 30-120-120). The local department may grant provisional approval if noncompliance *with the standards set forth in this chapter* does not jeopardize the safety or proper care of the adults. Provisional approval shall not exceed *90 calendar days*.

5.27.2 Suspension of approval

(22 VAC 30-120-120). The local department may suspend approval if noncompliance *with the standards set forth in this chapter* may jeopardize the safety and proper care of the adults ~~in care~~. Suspension shall not exceed *90 calendar days*. During the suspension, the provider *shall not provide care to adults receiving services arranged by the local department*.

5.27.3 Revocation of approval

(22 VAC 30-120-120). If the provider is found to be out of compliance with the standards set forth *in this chapter* and cannot meet standards within *90 calendar days* and a variance is not granted, the approval shall be revoked.

The local department shall immediately revoke its approval if noncompliance *with the standards set forth in this chapter* jeopardizes the health, safety, and proper care of adults. *The local department shall terminate services and find alternative services for all affected adult who are receiving adult foster care no later than five calendar days from the date of the local department's revocation decision. For in-home providers, the local department*

shall find alternative for the adult no later than 30 calendar days from the date of the local department's revocation decision.

5.27.4 Notification of action

(22 VAC 30-120-120). The decision to grant provisional approval, suspend approval or revoke approval shall be in writing with the effective date of the decision noted.

The LDSS shall notify the provider in writing, specify the reasons for provisional approval, suspension, or revocation, and indicate the provider's right of review. See *DSS intranet* for a sample letter.

5.28 Relocation of the AFC provider

The following sections describe *procedures for* when an AFC provider relocates.

5.28.1 Within the approving jurisdiction

(22 VAC 30-120-130). If the *adult foster care provider relocates within the locality*, the local department approving the provider shall determine continued compliance with standards related to the home as soon as possible, but no later than 30 *calendar* days after relocation, to avoid disruption of services to the adult ~~in~~ *receiving* care.

The renewal period does not change unless a full re-approval is done at the same time. A new Certificate of Approval does not need to be issued unless the provider requests one.

5.28.2 Outside of the approving jurisdiction

(22 VAC 30-120-130). *If the adult foster care provider relocates within the Commonwealth to a locality other than the locality that originally approved the adult foster care provider, the local department that originally approved the adult foster care provider (original local department) shall notify the local department in the new locality (new local department) of the relocation. If the new local department offers adult foster care services, the new local department may accept the adult foster care provider approval from the original local department based upon the recommendation of the original local department of the new local department may initiate an approval process. If the new local department does not offer adult foster care services, the original local department shall request written permission from the new local department for the adult foster care provider to continue to provider adult foster care services for the original local department.*

5.29 Right of review

(22 VAC 30-120-140). The provider shall have the right to request that the decision of the *local department* be reviewed by the director of *the local department*.

The provider shall request the review within 10 calendar days from the effective date of the *local department's decision*.

All written findings and actions of the local department or its director, including the decision of the local department director at the conclusion of the review, are final and shall not be (i) appealable to the Commissioner of the Department for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

5.29.1 Review process

If a dispute cannot be resolved between an approved provider or applicant provider and an LDSS, the applicant/provider has the right to request a review of the LDSS' decision by the local director of social services. The request to review the LDSS' decision shall be made **within 10 calendar days** from the effective date of the department's written notice. The steps of the review are as follows:

1. The LDSS shall schedule a review conference **within 10 working days** of receipt of the written request by the applicant/provider.
2. Participants in the review conference may include:
 - The applicant/provider(s).
 - The appropriate LDSS staff.
 - The LDSS director or his designee.
 - Up to two (2) other individuals chosen by the applicant/provider.
3. The LDSS shall write a summary of the review conference **within 10 working days** of the conference. The summary of the review will also include the local director's decision. A copy of the summary shall be shared with all participants. The decision of the local director is final.

5.30 Use of provider by more than one LDSS

The initial approving LDSS is responsible for continued approval of providers used by more than one LDSS.

An LDSS may accept the provider approval of another LDSS. The other LDSS shall notify and obtain prior approval of the initial approving LDSS for each adult who is to receive services.

5.31 LDSS record-keeping

The LDSS shall maintain records on each approved provider. Documentation in the file shall be complete, accurate, and legible and signed with LDSS staff person's name and title and dated with month, day, and year. Confidentiality of records shall be ensured.

5.31.1 Contents of the provider file

- Application for Department Approved Provider or earlier version of an application.
- Compliance Form for Department Approved Provider and for out-of-home providers (Parts A and B).
- Purchase of Service Agreements.
 - An Individual Vendor Agreement may be used when services are purchased from the following providers: adult day services, *AFC*, and chore, companion, and homemaker.
 - Any Purchase of Service Orders and Vendor Invoices (related to the Individual Vendor Agreement) should be maintained in the adult's record, not the provider's file. Copies of these documents may be maintained in the provider file.
 - Other information may include, where applicable, medical statements, criminal record check, fire inspection, water and sanitation inspection, correspondence, and provider narrative.

5.32 Department data system

PeerPlace enables the LDSS to enter provider information into the system so that the provider will be able to be selected on the service plan.

5.33 When the provider is the subject of an APS allegation

If a provider is the subject of an APS allegation against an adult in care, the LDSS may assign another provider to care for the adult until the allegation is resolved.

5.34 The LDSS as the adult's fiscal agent

In an agreement reached between the DSS and the Internal Revenue Service (IRS), it was determined that there is a common-law employer-employee relationship between the adult services home-based provider (companion, chore, and homemaker) and the adult. The DSS/IRS agreement was effective January 1, 1995. Per the agreement, LDSS act as fiscal agents on behalf of the adult by ensuring that necessary taxes are paid. The services performed by the home-based provider constitute "domestic service in a private home of the employer." Therefore, the adult is the employer of the provider. Neither the state nor the LDSS is the provider's employer.

LDSS have to file Form 941-Employer's Quarterly Federal Tax Return and Form 940-Employer's Annual Federal Unemployment (FUTA) Tax Return under the EIN of the filing entity. Each return should report an aggregate of all of the taxable wages paid by the entity on behalf of the individual receiving services.

However, the IRS has confirmed that LDSS are not required to file Schedule R (Form 941) and Schedule R (Form 940) because the LDSS are not in a section 3504 relationship with the client.

5.34.1 Authorization to act on adult's behalf

The LDSS should inform the adult that the LDSS is acting as fiscal agent on his or her behalf in paying and withholding the required taxes. Authorization should be obtained and retained in the individual's record. The signed form should be filed in the adult's record. A copy of the form may also be filed in the provider's record. This form is located on the VDSS intranet.

5.34.2 Purchase of Services Orders

For each Purchase of Services Order written, the LDSS should encumber, as fiscal agent for the adult, the funds required to pay the applicable taxes. A Purchase of Services Order is available on the DSS intranet.

5.34.3 Immigration and Naturalization Service verification

The LDSS, as fiscal agent for the adult, is responsible for completing the I-9 form from the Immigration and Naturalization Service (INS) on behalf of the adult. The I-9 form is available on the INS website.

5.34.4 Contracting with an external organization for home-based services

If an LDSS chooses to contract with an external organization to provide home-based services that contract organization shall assume responsibility for collecting and paying FICA and payment of unemployment taxes, if applicable, and for issuing W-2 or W-4 forms to providers.

5.34.5 SSI benefits received by provider

In cases where a provider is receiving SSI, SSA, or other public assistance benefits, the income received as a provider may have an effect on the provider's amount of or entitlement to SSI. The effects of receiving this additional income shall be discussed with the provider. The provider shall be advised of his responsibility for notifying the Social Security Administration.

5.34.6 Rate of payment for home-based services

Each LDSS shall establish local board policy to specify the maximum number of hours of service and rate of pay for providers. The rate of payment for companion, chore, and homemaker services shall be at least the minimum wage.

5.35 Abuse, neglect, and exploitation reporting – all providers

(22 VAC 30-120-40). All providers shall immediately report any suspected abuse, neglect, or exploitation of any adult in care to the local department or to the 24-hour toll-free hotline (hotline number: 888-83-ADULT). Providers covered by this *chapter* are mandatory reporters in accordance with § 63.2-1606 of the Code of Virginia. Failure to report could result in the imposition of civil penalties.

5.36 Rights of adults receiving care

Adults *receiving care from* LDSS approved providers have rights specified by regulation. Each adult, or his or her representative, shall receive a copy of these rights and acknowledge receipt of these rights by signing another copy which will be maintained in the adult's record. All approved providers shall also receive a copy of the rights of adults in care and acknowledge receipt of the rights by signing another copy which will be placed in the provider's record. *AFC providers* shall make available in an easily accessible place

a copy of these rights and responsibilities. In addition, the *AFC* provider shall include with the rights, the telephone number of the Adult Protective Services Hotline as well as the toll-free telephone number of the Virginia Long-Term Care Ombudsman Program and any local ombudsman program serving the jurisdiction. A copy is also available online on the DSS intranet.

5.37 Responsibilities of adults in *AFC*

- A. The adult *receiving* care shall follow the rules of the provider unless these rules are in violation of *an adult's* rights.
- B. Adults *receiving* care, ~~or~~ the local department, *or the adult's responsible person, if applicable*, shall give *two weeks* written notice of *the* intent to leave the placement.
- C. Adults *receiving* care *or the adult's responsible person, if applicable*, shall notify providers if there are changes in the adult's health status.

5.38 Fraud

(22 VAC 30-120-30). Any provider who causes the local department to make an improper payment by withholding information or providing false information *shall* be required to pay the amount of the improper payment. Failure to repay any improper payment shall result in a referral for criminal or civil prosecution.

Section 63.2-522 deems guilty of larceny any person who obtains, or aids or abets any person in obtaining, by means of a willful false statement or representation, or by impersonation, or other fraudulent device, public assistance or benefits. Recipients deemed guilty of larceny, upon conviction, are subject to penalties as specified in the § 18.2-95. The LDSS shall explain to individuals applying for adult services and providers the importance of providing accurate and thorough information and of notifying the LDSS of changes during service delivery.

5.39 Appendix A: Forms

The following forms may be used for Adult Service Providers. These forms are located on the Adult Services forms page of the DSS intranet.

Application for Department Approved Provider

This form is completed by an individual who wants to become an adult services provider.

Authorization to Act on Adult's Behalf

This form is used to explain to the adult that the LDSS is acting as fiscal agent on his or her behalf in paying and withholding the required taxes.

Certificate of Approval

This form is issued to providers once they have been approved.

Compliance Form

This form is completed on each provider during initial approval process and at renewal.

Purchase of Services Order

This form is used to order services from vendors or to terminate or change existing orders.

Rights of Adults in Care

This form lists the rights of adults who are receiving care from department approved providers.

Tuberculosis Statement

This form is used to certify that an individual who wants to become an adult services provider is free from tuberculosis.

5.40 Appendix B: Code of Virginia – criminal history release

(§ 19.2-389). Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G; and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision 15 of subsection A shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision 16 of subsection A shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision 36 of subsection A shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

(§ 63.2-1601.1). Criminal history check for agency approved providers of services to adults.

A. Each local board shall obtain, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange of any individual the local board is considering approving as a provider of home-based services pursuant to § 63.2-1600 or adult foster care pursuant to § 63.2-1601. The local board may also obtain such a criminal records search on all adult household members residing in the home of the individual with whom the adult is to be placed. The local board shall not hire for compensated employment any persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02. If approval as an agency approved provider is denied because of information obtained through a Central Criminal Records Exchange search, the local board, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Further dissemination of the criminal history record information is prohibited.

B. In emergency circumstances, each local board may obtain from a criminal justice agency the criminal history record information from the Central Criminal Records Exchange for the criminal records search authorized by this section. The provision of home-based services shall be immediately terminated or the adult shall be removed from the home immediately, if any adult resident has been convicted of any offense set forth in clause (i) of the definition of barrier crime as described in § 19.2-392.02.

5.41 Appendix C: Code of Virginia – barrier crimes

The local board shall not hire for compensated employment any persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia.

Barrier crime means:

- A felony violation of:
 - § 16.1-253.2 (Felony violation of a protective order)
- Any violation of:
 - § 18.2-31 (*Aggravated* murder)
 - § 18.2-32 (1st & 2nd degree murder)
 - § 18.2-32.1 (Murder of a pregnant woman)
 - 18.2-32.2 (Killing a fetus)
 - § 18.2-33 (Felony homicide)
 - § 18.2-35 (Voluntary manslaughter)
 - § 18.2-36 (Involuntary manslaughter)
 - § 18.2-36.1 (Certain conduct punishable as involuntary manslaughter)
 - § 18.2-36.2 (Involuntary manslaughter; operating a watercraft under the influence)
 - § 18.2-41 (Shooting stabbing, etc., with intent to maim, kill by mob)
 - § 18.2-42 (Assault or battery by mob)
- Any felony violation of:
 - § 18.2-46.2 (Criminal street gang participation)
 - § 18.2-46.3 (Recruitment of persons for criminal street gang)
 - § 18.2-46.3:1 (3rd or subsequent conviction of criminal street gang crimes)

- § 18.2-46.3:3 (Enhanced punishment for gang activity in a gang-free zone)
- Any violation of:
 - § 18.2-46.5 (Committing, conspiring and aiding and abetting acts of terrorism)
 - § 18.2-46.6 (Possession, manufacture, distribution, etc. of weapon of terrorism or hoax device)
 - § 18.2-46.7 (Act of bioterrorism against agricultural crops or animals)
- Any violation of subsection A or B of:
 - § 18.2-47 (Abduction and kidnapping)
- Any violation of:
 - § 18.2-48 (Abduction with intent to extort money or for immoral purpose)
 - § 18.2-49 (Threatening, attempting or assisting in such abduction)
 - § 18.2-50.3 (Enticing another into a dwelling house with intent to commit certain felonies)
- Any violation of:
 - § 18.2-51 (Shooting, stabbing with intent to maim, kill)
 - § 18.2-51.1 (Malicious bodily injury to law-enforcement officers, firefighters, search and rescue, or emergency medical services)
 - § 18.2-51.2 (Aggravated malicious wounding)
 - § 18.2-51.3 (Reckless endangerment of others by throwing objects from places)
 - § 18.2-51.4 (Maiming of another resulting from driving while intoxicated)
 - § 18.2-51.5 (Maiming, etc., of another resulting from operating a watercraft while intoxicated)
 - § 18.2-51.6 (Strangulation of another)
 - § 18.2-52 (Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire)

- § 18.2-52.1 (Possession of infectious biological substances or radiological agents)
- § 18.2-53 (Shooting, etc., in committing or attempting a felony)
- § 18.2-53.1 (Use or display of firearm in committing felony)
- § 18.2-54.1 (Attempts to poison)
- § 18.2-54.2 (Adulteration of food, drink, drugs, cosmetics)
- § 18.2-55 (Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers or adult parolees)
- § 18.2-55.1 (Hazing of youth gang members unlawful; criminal liability)
- § 18.2-56 (Hazing unlawful; civil and criminal liability; duty of school, etc., officials)
- § 18.2-56.1 (Reckless handling of firearms; reckless handling while hunting)
- § 18.2-56.2 (Allowing access to firearms by children)
- § 18.2-57 (Assault and battery)
- § 18.2-57.01 (Pointing a laser at a law-enforcement officer)
- § 18.2-57.02 (Disarming a law-enforcement of correctional officer)
- § 18.2-57.2 (Assault and battery against a family or household member)
- § 18.2-58 (Robbery)
- § 18.2-58.1 (Carjacking)
- § 18.2-59 (Extortion of money, property or pecuniary benefit)
- § 18.2-60 (Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers)
- § 18.2-60.1 (Threatening the Governor or his immediate family)
- Any felony violation of:

- § 18.2-60.3 (Stalking)
- § 18.2-60.4 (*Violation of protective orders*)
- Any violation of:
 - § 18.2-61 (Rape)
 - § 18.2-63 (Carnal knowledge of a child between thirteen and fifteen *years of age*)
 - § 18.2-64.1 (Carnal knowledge of certain minors)
 - § 18.2-64.2 (Carnal knowledge of a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, detainee, or pretrial or post trial offender)
 - § 18.2-67.1 (Forcible sodomy)
 - § 18.2-67.2 (Object sexual penetration)
 - § 18.2-67.3 (Aggravated sexual battery)
 - § 18.2-67.4 (Sexual battery)
 - § 18.2-67.4:1 (Infected sexual battery)
 - § 18.2-67.4:2 (Sexual abuse of a child under 15 years of age)
 - § 18.2-67.5 (Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery)
 - § 18.2-67.5:1 (Conviction of third misdemeanor offense)
 - § 18.2-67.5:2 (Conviction of certain subsequent felony sexual assault)
 - § 18.2-67.5:3 (Conviction of certain subsequent violent felony sexual assault)
 - § 18.2-77 (Burning or destroying a dwelling house)
 - § 18.2-79 (Burning or destroying a meeting house)
 - § 18.2-80 (Burning or destroying any other building or structure)
 - § 18.2-81 (Burning or destroying personal property, standing grain)

- § 18.2-82 (Burning building or structure while in such building or structure with intent to commit felony)
- § 18.2-83 (Threats to bomb or damage buildings or means of transportation, false information as to danger to such buildings, etc.)
- § 18.2-84 (Causing, inciting, etc.)
- § 18.2-85 (Manufacture, possession, use, etc., of fire bombs or explosive materials or devices)
- 18.2-86 (Setting fire to woods, fences, grass, etc.)
- § 18.2-87 (Setting woods, etc., on fire intentionally)
- § 18.2-87.1 (Setting off chemical bombs capable of producing smoke in certain public buildings)
- § 18.2-88 (Carelessly damaging property by fire)
- Any felony violation of:
 - § 18.2-279 (Discharging firearms or missiles within or at building or dwelling house)
 - § 18.2-280 (Willfully discharging firearms in public places)
 - § 18.2-281 (Setting spring gun or other deadly weapon)
 - § 18.2-282 (Pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance)
 - § 18.2-282.1 (Brandishing a machete or other bladed weapon with intent to intimidate)
 - § 18.2-286.1 (Shooting from vehicles so as to endanger persons)
 - § 18.2-287.2 (Wearing of body armor while committing a crime)
- Any violation of:
 - § 18.2-289 (Use of machine gun for crime of violence)
 - § 18.2-290 (Use of machine gun for aggressive purpose)

- § 18.2-300 (Possession or use of "sawed-off" shotgun or rifle)
- § 18.2-308.4 (Possession of firearms while in possession of certain substances)
- § 18.2-314 (Failing to secure medical attention for injured child)
- Any felony violation of:
 - § 18.2-346.01 (Prostitution; solicitation; commercial exploitation of a minor)
 - § 18.2-348 (Aiding prostitution or illicit sexual intercourse)
 - § 18.2-349 (Using vehicles to promote prostitution or unlawful sexual intercourse)
- Any violation of:
 - § 18.2-355 (Taking, detaining, etc., person for prostitution or consenting thereto; human trafficking)
 - § 18.2-356 (Receiving money for procuring person)
 - § 18.2-357 (Receiving money from earnings of male or female prostitute)
 - § 18.2-357.1 (Commercial sex trafficking)
- Any violation of subsection B of § 18.2-361 (Crimes against nature)
- Any violation of:
 - § 18.2-366 (Sexual intercourse by persons forbidden to marry; incest)
 - § 18.2-369 (Abuse and neglect of *vulnerable* adults)
 - § 18.2-370 (Taking indecent liberties with children)
 - § 18.2-370.1 (Taking indecent liberties with child by person in custodial or supervisory relationship)
 - § 18.2-370.2 (Sex offenses prohibiting proximity to children)
 - § 18.2-370.3 (Sex offenses prohibiting residing in proximity to children)
 - § 18.2-370.4 (Sex offenses prohibiting working on school property)

- § 18.2-370.5 (Offenses prohibiting entry onto school or other property)
- § 18.2-370.6 (Penetration of mouth of child with lascivious intent)
- § 18.2-371.1 (Abuse and neglect of children; abandoned infant)
- § 18.2-374.1 (Production, publication, sale, financing, etc., of child pornography)
- § 18.2-374.1:1 (Possession, reproduction, distribution, solicitation, and facilitation of child pornography)
- § 18.2-374.3 (Use of communications systems to facilitate certain offenses involving children)
- § 18.2-374.4 (Display of child pornography or grooming video or materials to a child)
- § 18.2-379 (Employing or permitting minor to assist in offense under article)
- § 18.2-386.1 (Unlawful creation of image of another)
- § 18.2-386.2 (Unlawful dissemination or sale of images of another)
- Any felony violation of:
 - § 18.2-405 (Riot)
 - § 18.2-406 (Unlawful assembly)
- Any violation of:
 - § 18.2-408 (Conspiracy; incitement to riot)
 - § 18.2-413 (Commission of certain offenses in county, city, or town declared by Governor to be in state of riot or insurrection)
 - § 18.2-414 (Injury to property or persons by persons unlawfully or riotously assembled)
 - § 18.2-423 (Burning cross on property of another or public place with intent to intimidate)
 - § 18.2-423.01 (Burning object on property of another or a highway or other public place with intent to intimidate)

- § 18.2-423.1 (Placing swastika on certain property with intent to intimidate; penalty)
- § 18.2-423.2 (Displaying noose on property of another or a highway or other public place with intent to intimidate)
- § 18.2-433.2 (Paramilitary activity)
- § 18.2-472.1 (Providing false information or failing to provide registration information)
- § 18.2-474.1 (Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons)
- § 18.2-477 (Prisoner escaping from jail)
- § 18.2-477.1 (Escapes from juvenile facility)
- § 18.2-477.2 (Punishment for certain offenses committed within a secure juvenile facility or detention home)
- § 18.2-478 (Escape from jail or custody by force or violence without setting fire to jail)
- § 18.2-479 (Escape without force or violence or setting fire to jail)
- § 18.2-480 (Escape, etc., by setting fire to jail)
- § 18.2-481 (Treason)
- § 18.2-484 (Advocacy of change in government by force, violence or other unlawful means)
- § 18.2-485 (Conspiring to incite one race to insurrection against another race)
- § 37.2-917 (Escape of persons committed)
- § 53.1-203 (Felonies by prisoners)

Or any substantiality similar offense under the laws of another jurisdiction; (ii) any violation of §18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of §4.1-1101, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2; or any

substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of §18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to §9.1-901, including any finding that the person is not guilty by reason of insanity in accordance with Chapter 11.1 (§19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; *any substantiality similar offense under the laws of another jurisdiction; or any offense for which* registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), (v) unless five years have elapsed from the date of the conviction.