

Offenses Considered Barrier to Employment for Home Care Providers

Virginia law requires home care organizations and licensed hospices to acquire a criminal record clearance on all compensated employees within 30 days of employment. A conviction of any listed crime (with exceptions noted*) is considered a barrier to employment by a licensed or unlicensed home care organization or a licensed hospice. Substantially similar offenses committed in jurisdictions outside of Virginia are also considered barrier crimes for home care providers.

Virginia Code Section	Brief Description of Crime
§ 16.1-253.2	Felony violation of provisions of protective order
§ 18.2-31	Capital murder
§ 18.2-32	First and second 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; 18.2-36; 18.2-36.1	Voluntary and involuntary manslaughter
§ 18.2-36.2	Involuntary manslaughter – caused while operating a watercraft recklessly or while under the influence
§ 18.2-41	Shooting, stabbing with intent to maim, kill, by a mob
§ 18.2-42	Assault or battery by a mob
§§ 18.2-46.2; 18.2-46.3; 18.2-46.3:1; 18.2-46.3:3	Felony violation of criminal street gang crimes (participation, recruitment, subsequent convictions, activities in gang-free zone)
§§ 18.2-46.5; 18.2-46.6; 18.2-46.7	Terrorism; Possession, manufacturing, distribution of weapon of terrorism or hoax; bioterrorism
§ 18.2-47	Abduction and kidnapping
§ 18.2-48	Abduction with intent to extort money or for immoral purpose
§ 18.2-49	Threatening, attempting or assisting in abduction
§ 18.2-50.3	Enticing another into a dwelling house with intent to commit certain felonies
§§ 18.2-51; 18.2-51.1; 18.2-51.2; 18.2-51.3; 18.2-51.4; 18.2-51.5; 18.2-51.6	Assaults and bodily wounding and related crimes (shooting, stabbing, malicious bodily injury to members of law enforcement, aggravated malicious wounding, reckless endangerment by throwing objects from places higher than one story, maiming caused by driving while intoxicated, maiming caused by operating a watercraft while intoxicated, strangulation)
§§ 18.2-52; 18.2-52.1	Malicious bodily injury by caustic substance or explosives; possession of biological or radiological agents
§§ 18.2-53; 18.2-53.1	Shooting or displaying firearm in committing or attempting felony
§§ 18.2-54.1; 18.2-54.2	Attempts to poison; adulteration of food, drink, drugs, cosmetics



Virginia Code Section	Brief Description of Crime
§ 18.2-55	Bodily injuries caused by prisoners
§§ 18.2-55.1; 18.2-56	Hazing of youth gang members; hazing in schools
§ 18.2-56.1	Reckless handling of firearms and while hunting
§ 18.2-56.2	Allowing access to firearms by children
§ 18.2-57	Assault and battery
§ 18.2-57.01	Pointing laser at law enforcement
§ 18.2-57.02	Disarming law enforcement
§ 18.2-57.2	Assault and battery against 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 his family and to persons on school property
§ 18.2-60.1	Threatening Governor or immediate family
§ 18.2-60.3	Felony stalking
§ 18.2-60.4	Felony violation of protective order
§ 18.2-61	Rape
§ 18.2-63	Carnal knowledge of child between 13 and 15
§ 18.2-64.1	Carnal knowledge of certain minors (committed minors)
§ 18.2-64.2	Carnal knowledge of inmate, parolee, probationer, detainee
§ 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 child under 15
§ 18.2-67.5	Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, sexual battery
§ 18.2-67.5:1	3 rd misdemeanor offense of § 18.2-67.5
§ 18.2-67.5:2	Subsequent felony sexual assault
§ 18.2-67.5:3	Subsequent violent felony sexual assault
§ 18.2-77	Burning or destroying dwelling house
§ 18.2-79	Burning or destroying 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 inside with intent to commit felony
§ 18.2-83	Threats to bomb or damage buildings or means of transportation, false information as to danger of such buildings
§ 18.2-84	Causing or inciting violation of § 18.2-83
§ 18.2-85	Manufacture, possession, use of fire bombs, explosives
§ 18.2-86	Setting fire to woods, fences, grass

Virginia Code Section	Brief Description of Crime
§ 18.2-87	Setting woods on fire intentionally – damaging or jeopardizing another
§ 18.2-87.1	Setting off chemical bombs capable of producing smoke in certain public buildings
§ 18.2-88	Carelessly damaging property by fire
§ 18.2-279	Felony violation of discharging firearms or missiles within or at building or dwelling house
§ 18.2-280	Felony violation of willfully discharging firearms in public places
§ 18.2-281	Felony violation of setting spring gun or other deadly weapon
§ 18.2-282	Felony violation of pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance
§ 18.2-282.1	Felony violation of brandishing a machete or other bladed weapon with intent to intimidate
§ 18.2-286.1	Felony violation of shooting at vehicles so as to endanger persons
§ 18.2-287.2	Felony violation of wearing of body armor while committing a crime
§ 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	Failure to secure medical attention for injured child
§ 18.2-346.01	Felony violation of prostitution, commercial sexual conduct, commercial exploitation of minor
§ 18.2-348	Felony violation of aiding prostitution or illicit sexual intercourse
§ 18.2-349	Felony violation of using vehicles to promote prostitution or unlawful sexual intercourse
§ 18.2-355	Taking, detaining person for prostitution; 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
§ 18.2-361(B)	Crimes against nature
§ 18.2-366	Adultery and fornication by persons forbidden to marry; incest
§ 18.2-369	Abuse and neglect of incapacitated adults
§§ 18.2-370; 18.2-370.1	Taking indecent liberties with children; with children 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	Sex 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
§ 18.2-374.1	Production, publication, sale, financing of child pornography
§ 18.2-374.1:1	Possession, reproduction, distribution, solicitation, and facilitation of child pornography
§ 18.2-374.3	Use of electronic 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 engage in crime involving morals and decency

Virginia Code Section	Brief Description of Crime
§ 18.2-386.1	Unlawful creation of image of another
§ 18.2-386.2	Unlawful dissemination or sale of images of another
§ 18.2-405	Felony violation of rioting
§ 18.2-406	Felony violation of unlawful assembly
§ 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 highway or public place with intent to intimidate
§ 18.2-423.1	Placing swastika on certain property with intent to intimidate
§ 18.2-423.2	Displaying noose on property of another or highway or 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 to prisoners
§ 18.2-477	Prisoner escaping from jail
§ 18.2-477.1	Escaping from juvenile facility
§ 18.2-477.2	Certain offenses committed within a secure juvenile facility
§ 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 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	Escapes of persons committed – civil commitment of sexually violent predators
§ 53.1-203	Felonies by prisoners

* Please note the law provides an exception to the prohibition on hiring an applicant who has been convicted of one of the barrier crimes above if the conviction (1) was punishable as a misdemeanor; (2) did not involve abuse or neglect; and (3) occurred more than five years prior to hiring.

This list is provided for general information purposes only and does not contain the details of specific crimes. This article has been provided as an informational service and does not constitute legal counsel or advice, which can only be rendered in the context of specific factual situations. Please review the Virginia Code directly and consult legal counsel as necessary. If a legal issue should arise, please retain the assistance of counsel. For additional information, contact:

Jonathan M. Joseph, Esq.
 jjoseph@cblaw.com | 804.697.4125
 Christian & Barton, LLP | 901 East Cary Street, Suite 1800 | Richmond, Virginia 23219