

# Issue Analysis Form



**Date:** December 13, 2022  
Ordinance amending Section 2-1 regarding background check and fingerprinting requirements for persons offered conditional employment and for volunteers

**Item:**

**Lead Department(s):** County Attorney

**Contact Person(s):** Dan Whitten

## Description and Current Status

Section 2-1 of the Code of the County of Prince George is enacted to comply with provisions of the Code of Virginia Section 15.2-1503.1.

The amendment will bring the County Code in compliance with Virginia Code Sections 15.2-1505.1, 15.2-1505.3 and 19.2-389(A)7 allowing the access of criminal history record information of any person conditionally offered employment or wishing to volunteer. All persons conditionally offered employment or who wish to volunteer must be fingerprinted and provide personal descriptive information for purposes of obtaining criminal history information. Human Resources will now be responsible for transmitting information to the Central Criminal Records Exchange and FBI. All results will be returned to the Human Resources Department. The human resources director will determine if the information contained in the record directly relates to the position, compatible with the nature of the employment or volunteering, and whether it disqualifies the person from employment or volunteering. The amendment will list the considerations to be followed.

A draft ordinance is attached for consideration; a motion approving authority to advertise the ordinance for a public hearing on January 10, 2023, is requested.

This Ordinance shall be effective immediately.

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Sample Motion: I move that the Board approve advertisement of an Ordinance for a public hearing on January 10, 2023 regarding background check and fingerprinting requirements for persons offered conditional employment and for volunteers.

## Government Path

- Does this require IDA action?  Yes  No
- Does this require BZA action?  Yes  No
- Does This require Planning Commission Action?  Yes  No
- Does this require Board of Supervisors action?  Yes  No
- Does this require a public hearing?  Yes  No
- If so, before what date?  Yes  No

## Fiscal Impact Statement

## County Impact

## Notes

Board of Supervisors  
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia, this 13<sup>th</sup> day of December, 2022:

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Present:

Marlene J. Waymack, Chair  
Donald Hunter, Vice Chair  
Floyd M. Brown, Jr.  
Alan R. Carmichael  
T. J. Webb

Vote:

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A-4

On motion of \_\_\_\_\_, seconded by \_\_\_\_\_, which carried unanimously, the following Resolution was adopted:

**RESOLUTION; AUTHORITY TO ADVERTISE AN ORDINANCE TO AMEND  
“THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA,”  
AS AMENDED, BY AMENDING §2-1 REGARDING BACKGROUND CHECK  
AND FINGERPRINTING REQUIREMENTS FOR PERSONS OFFERED  
CONDITIONAL EMPLOYMENT AND FOR VOLUNTEERS**

**NOW, THEREFORE, BE IT RESOLVED**, that the Board Of Supervisors of the County of Prince George this 13<sup>th</sup> day of December, 2022, does hereby authorize the advertisement of a public hearing on January 10, 2023 for an Ordinance to Amend “The Code of the County of Prince George, Virginia,” as amended, by amending §2-1 regarding background check and fingerprinting requirements for persons offered conditional employment and for volunteers.

A Copy Teste:

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Jeffrey D. Stoke  
County Administrator

ORDINANCE TO AMEND § 2-1 OF “THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA”, 2005, AS AMENDED TO MAKE CHANGES TO THE BACKGROUND CHECK AND FINGERPRINTING REQUIREMENTS FOR PERSONS OFFERED CONDITIONAL EMPLOYMENT AND FOR VOLUNTEERS

BE IT ORDAINED by the Board of Supervisors of Prince George County:

- (1) *That § 2-1 of The Code of the County of Prince George, Virginia, 2005, as amended, is amended as follows:*

CHAPTER 2 ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Employment, ~~licensing~~ and volunteer service; background check.

- (a) This section is enacted pursuant to comply with the provisions of the Code of Virginia, § 15.2-1503.1, 15.2-1505.1, 15.2-1505.3 and 19.2-389(A) 7 to be able to access criminal history record information of any person conditionally offered county employment in order to determine whether the past criminal conduct of such persons would be compatible with the nature of such employment. Further, the provisions of this section are intended to be in addition to, and not in derogation of, all other federal and state statutes providing for access to criminal history record information concerning applicants for, and persons offered, county employment. In addition, this section is enacted to regulate employment by the county, a prospective licensee for any categories of license is required to submit to fingerprinting and volunteer service.
- (b) All persons conditionally offered employment ~~An applicant, licensee or volunteers~~ seeking to engage in employment ~~or~~ volunteer service shall submit to fingerprinting and provide personal descriptive information to be forwarded to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. All offers of employment or volunteering shall be conditioned upon the person, offered such employment or the opportunity to volunteer, submitting to fingerprinting and providing personal descriptive information necessary to do the background check. Failure of the person to submit to fingerprinting and to provide personal descriptive information shall disqualify the person from employment in such position or from serving as a volunteer. if required, two sets of his fingerprints taken by the county police department to the Central Criminal Records Exchange in Richmond, Virginia, along with the appropriate fees.
- (c) Upon receipt of the fingerprints and the appropriate fees, the human resources department ~~county police department~~ will transmit ~~both sets of the~~ fingerprints and appropriate fees (unless a satisfactory billing arrangement has been entered into between the police department and the Central Criminal Records Exchange) personal descriptive information through to the Central Criminal Records Exchange. The Central Criminal Records Exchange will compare the subject's fingerprints against its criminal file and, if no disqualifying conduct is found therein, submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Federal Bureau of Investigation will be returned

to the Central Criminal Records Exchange, which will disseminate the state and national results to the police department human resources department.

- ~~(d) The county police department shall disseminate the results of the criminal background check to the county for fitness determination.~~
- ~~(d) In rendering a fitness determination, the county will decide whether the record subject has been convicted of or is under pending indictment for:~~
- ~~(1) A crime which bears upon his ability of fitness to serve in that capacity; or~~
  - ~~(2) Any felony or a misdemeanor which involved force or threat of force, controlled substances, was a sex related offense, or a crime involving moral turpitude; or~~
  - ~~(3) Has been the subject of a founded child abuse or neglect complaint~~

**Upon receipt of a report from the Central Criminal Records Exchange concerning a person either conditionally offered employment or to volunteer that indicates that the person has a criminal history record, the human resources director shall determine whether the conviction contained in the record directly relates to the authorized position, whether the past criminal conduct contained in the record is compatible with the nature of the employment or volunteering in the authorized position, and whether such conviction disqualifies the person from employment or volunteering in that authorized position. In determining whether a criminal conviction directly relates to the position, the following shall be considered:**

- (1) The nature and seriousness of the crime;**
- (2) The relationship of the crime to the work to be performed in the position applied for;**
- (3) The extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;**
- (4) The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought;**
- (5) The nature and extent of the person's past criminal activity;**
- (6) The age of the person at the time of the commission of the crime;**
- (7) The amount of time that has elapsed since the person's last involvement in the commission of a crime;**
- (8) The conduct and work activity of the person before and after the criminal activity; and**
- (9) Evidence of the person's rehabilitation or rehabilitative efforts while incarcerated or following release.**

~~(e) Any such person will be presumptively disqualified and any such person who is presumptively disqualified will only be permitted to engage in employment or volunteer service if authorized by the county administrator and county attorney.~~

**(e)(f)** A record subject denied employment, licensure or service as a volunteer shall be notified that information from the Central Criminal Records Exchange contributed to such denial. Should the record subject seek to amend or correct his record, he must contact the Central Criminal Records Exchange for a Virginia record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

(Ord. No. O-04-005, § 2-16, 4-13-2004)

2) *That the Ordinance shall be effective immediately.*

ORDINANCE TO AMEND § 2-1 OF “THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA”, 2005, AS AMENDED TO MAKE CHANGES TO THE BACKGROUND CHECK AND FINGERPRINTING REQUIREMENTS FOR PERSONS OFFERED CONDITIONAL EMPLOYMENT AND FOR VOLUNTEERS

BE IT ORDAINED by the Board of Supervisors of Prince George County:

*(1) That § 2-1 of The Code of the County of Prince George, Virginia, 2005, as amended, is amended as follows:*

CHAPTER 2 ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Employment and volunteer service; background check.

- (a) This section is enacted to comply with the provisions of the Code of Virginia, §§ 15.2-1503.1, 15.2-1505.1, 15.2-1505.3 and 19.2-389(A)(7) to be able to access criminal history record information of any person conditionally offered county employment in order to determine whether the past criminal conduct of such persons would be compatible with the nature of such employment. Further, the provisions of this section are intended to be in addition to, and not in derogation of, all other federal and state statutes providing for access to criminal history record information concerning applicants for, and persons offered, county employment. In addition, this section is enacted to regulate volunteer service.
- (b) All persons conditionally offered employment or volunteers seeking to engage in volunteer service shall submit to fingerprinting and provide personal descriptive information to be forwarded to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. All offers of employment or volunteering shall be conditioned upon the person, offered such employment or the opportunity to volunteer, submitting to fingerprinting and providing personal descriptive information necessary to do the background check. Failure of the person to submit to fingerprinting and to provide personal descriptive information shall disqualify the person from employment in such position or from serving as a volunteer.
- (c) Upon receipt of the fingerprints, the human resources department will transmit the fingerprints and personal descriptive information through to the Central Criminal Records Exchange. The Central Criminal Records Exchange will compare the subject's fingerprints against its criminal file and, if no disqualifying conduct is found therein, submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Federal Bureau of Investigation will be returned to the Central Criminal Records Exchange, which will disseminate the state and national results to the human resources department.
- (d) Upon receipt of a report from the Central Criminal Records Exchange concerning a person either conditionally offered employment or to volunteer that indicates that the person has a criminal history record, the human resources director shall determine whether the conviction contained in the record directly relates to the authorized position, whether the past criminal conduct contained in the record is compatible with the nature of the employment or

volunteering in the authorized position, and whether such conviction disqualifies the person from employment or volunteering in that authorized position. In determining whether a criminal conviction directly relates to the position, the following shall be considered:

- (1) The nature and seriousness of the crime;
  - (2) The relationship of the crime to the work to be performed in the position applied for;
  - (3) The extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;
  - (4) The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought;
  - (5) The nature and extent of the person's past criminal activity;
  - (6) The age of the person at the time of the commission of the crime;
  - (7) The amount of time that has elapsed since the person's last involvement in the commission of a crime;
  - (8) The conduct and work activity of the person before and after the criminal activity; and
  - (9) Evidence of the person's rehabilitation or rehabilitative efforts while incarcerated or following release.
- (e) A record subject denied employment or service as a volunteer shall be notified that information from the Central Criminal Records Exchange contributed to such denial. Should the record subject seek to amend or correct his record, he must contact the Central Criminal Records Exchange for a Virginia record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

(Ord. No. O-04-005, § 2-16, 4-13-2004)

- 2) *That the Ordinance shall be effective immediately.*