

POLICY GUIDE – CRIMINAL HISTORY REPORTS/BACKGROUND CHECKS
POLICY 2.10, HIRING
AMENDED DEFINITION OF SENSITIVE POSITION

Effective July 1, 2017, § 2.2-1201.1 in the Code of Virginia has been amended as follows:

Each state agency shall continue to record positions designated as sensitive in the Personnel Management Information System (PMIS) to ensure that the Department has a list of all such positions.

For purposes of this section, "sensitive positions" shall *include* those positions:

- 1. Responsible for the health, safety, and welfare of citizens or the protection of critical infrastructures;*
- 2. That have access to sensitive information, including access to federal tax information in approved exchange agreements with the Internal Revenue Service or Social Security Administration; and*
- 3. That are otherwise required by state or federal law to be designated as sensitive.*

Paragraph 2. was added to address those agencies that have entered into **exchange agreements** with the Internal Revenue Service or the Social Security Administration that permit designated employees to have direct access to their federal government databases. **It does NOT apply to any other agencies.**

Agency heads are responsible for ensuring that all sensitive positions are appropriately identified and recorded in the PMIS database. Agencies having the exchange agreements must develop related policies and procedures and communicate them to employees and applicants to ensure consistency, confidentiality of information, and compliance with conditions imposed by the federal agencies.

As a result of these exchange agreements, background investigations required for the designated positions:

- may be more rigorous than standard fingerprint checks prior to hire;
- such checks may be required on an ongoing or periodic basis after hire; and
- such checks may be required on current employees already performing the work.

Acceptable criminal history reports/background checks will become a condition of continued employment for current and future employees in those positions granted database access based on the noted federal exchange agreements.

Agencies should consult their liaisons in the Attorney General's Office for legal advice to ensure compliance with these additional federal stipulations and record retention.

July, 2017