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HOUSE BILL NO. 1200

Offered January 24, 2000

A BILL to amend and reenact § 2.1-373.02 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 24 of Title 2.1 an article numbered 3, consisting of sections numbered 2.1-373.15 through 2.1-373.18, relating to a grant program for aged, infirm and disabled adults.

Patrons—Cox, Albo, Black, Blevins, Bloxom, Broman, Bryant, Byron, Cantor, Davis, Devolites, Dillard, Drake, Dudley, Griffith, Hamilton, Hargrove, Howell, Ingram, Jones, S.C., Katzen, Kilgore, Landes, Larrabee, Louderback, McClure, McDonnell, McQuigg, Morgan, Nixon, Purkey, Reid, Rollison, Ruff, Sherwood, Suit, Tata, Wardrup, Ware and Weatherholtz; Senators: Martin, Newman and Schrock

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-373.02 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 24 of Title 2.1, an article numbered 3, consisting of sections numbered 2.1-373.15 through 2.1-373.18, as follows:

§ 2.1-373.02. Commonwealth Council on Aging; created; purpose; membership; terms; duties.

A. There is hereby created in the executive branch the Commonwealth Council on Aging, hereinafter referred to as the Council. The purpose of the Council shall be to promote an efficient, coordinated approach by state government to meeting the needs of older Virginians. The Council shall be composed of persons selected from the Commonwealth at large without regard to political affiliation but with due consideration of geographical representation. Appointees shall be selected for their ability, and all appointments shall be of such nature as to aid the work of the Council and to inspire the highest degree of cooperation and confidence.

B. The Council shall consist of nineteen voting members appointed as follows: one member from each of the eleven congressional districts of the Commonwealth appointed by the Governor subject to confirmation by a majority of each House of the General Assembly at its next regular session; four at-large members appointed by the Speaker of the House of Delegates; and four at-large members appointed by the Senate Committee on Privileges and Elections. The Council shall also include the following nonvoting, ex officio members: the Commissioner of the Department for the Aging, the Director of the Department of Medical Assistance Services, the Commissioner of Social Services and the Secretary of Health and Human Resources, or their designees. For initial appointments made by the Governor, the terms shall be as follows: five members shall serve four-year terms, four members shall serve three-year terms and two members shall serve two-year terms. For initial appointments made by the Speaker of the House of Delegates, two members shall be appointed for four-year terms and two members shall be appointed to two-year terms. For the initial appointments by the Senate Committee on Privileges and Elections, two members shall be appointed for four-year terms and two members shall be appointed for two-year terms. Thereafter, all appointments shall be for four-year terms.

In making initial appointments, the Governor, the Speaker of the House, and the Senate Committee on Privileges and Elections shall give due consideration to the appointment of members of the current Governor's Advisory Board on Aging.

Appointments to fill vacancies shall be for the unexpired term. No person having served on the Council for two consecutive terms shall be eligible for reappointment to the Council for two years thereafter.

C. The Council shall elect a chairman and a vice-chairman from among its members and shall appoint a secretary and such other officers as it deems necessary and prescribe their duties and terms of office.

D. The duties of the Council shall be as follows:

1. Examine the needs of older Virginians and ways in which state government can most effectively and efficiently assist in meeting those needs;

2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;

3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and Budget to have a substantial and distinct impact on older Virginians. Such advice shall be provided in addition to other regulatory reviews required by the Administrative Process Act;

4. Advocate and develop the Commonwealth's planning for meeting the needs of the growing number of older Virginians; and

5. Advise the Governor and General Assembly regarding the activities of the Department, *including*

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60 *the Virginia Respite Care Grant Program pursuant to Article 3 of Chapter 24 (§ 2.1-373.15 et seq.) of*
61 *this title.*

62 E. The Council is authorized to apply for and expend such grants, gifts, or bequests from any source
63 as may become available in connection with its duties under this section, and is authorized to comply
64 with such conditions and requirements as may be imposed in connection therewith.

65 *Article 3.*

66 *Virginia Respite Care Grant Program.*

67 *§ 2.1-373.15. Definitions.*

68 *As used in this article, unless the context requires otherwise:*

69 *"Adult day care services" means the provision of supplementary care and protection during a part of*
70 *the day only to aged, infirm, or disabled adults living with their relatives. Such services may be in or*
71 *away from the residence of the aged, infirm, or disabled adult.*

72 *"Community respite care organization" shall mean a local subdivision of the Commonwealth, a*
73 *combination of political subdivisions, a separate public agency or a private nonprofit agency exempt*
74 *under § 501 (c) (3) of the Internal Revenue Code, which has the authority under its applicable charter,*
75 *laws or articles of organization to receive funds to support respite care activities.*

76 *"Department" means the Department for the Aging.*

77 *"Fund" means the Virginia Respite Care Grant Fund established by § 2.1-373.17.*

78 *"Relative" means a spouse, child, father, mother, sibling, or other ancestor or descendent who is*
79 *related by blood, marriage or adoption.*

80 *"Respite care" means the provision of supplementary care and protection for aged, infirm, or*
81 *disabled adults living with their relatives. Respite care includes, but is not limited to, adult day care*
82 *services.*

83 *§ 2.1-373.16. Respite Care Grant Program established.*

84 *Beginning January 1, 2001, any community respite care organization shall be eligible to receive an*
85 *annual respite care grant in the amount of up to \$100,000 for the development or expansion of adult*
86 *day care services or other services that provide respite care to aged, infirm, or disabled adults living*
87 *with their relatives. The grants under this article shall be paid from the Fund, as provided in this*
88 *article, to the community respite care organization. As a condition of a grant, money appropriated from*
89 *such fund shall be matched by community respite care organization funds (in-kind or cash) earmarked*
90 *for the development or expansion of respite care services. The total amount of grants to be paid under*
91 *this chapter for any year shall not exceed the amount appropriated by the General Assembly to the*
92 *Fund for payment to community respite care organizations for such year. Only one grant shall be*
93 *allowed annually for each community respite care organization under the provisions of this section.*

94 *§2.1-373.17. Virginia Respite Care Grant Fund established.*

95 *There is hereby established a special fund in the state treasury to be known as the Virginia*
96 *Caregivers Grant Fund, which shall be administered by the Department. The Fund shall include such*
97 *moneys as may be appropriated by the General Assembly from time to time and designated for the*
98 *Fund. The Fund shall be used solely for the payment of grants to community respite care organizations*
99 *pursuant to this article. Unallocated moneys in the Fund in any year shall remain in the Fund and be*
100 *available for allocation for grants under this article in ensuing fiscal years.*

101 *§2.1-373.18. Grant application process; administration.*

102 A. Grant applications shall be submitted by community respite care organizations to the Department
103 between February 1 and May 1. Failure to meet the application deadline shall render the community
104 respite care organization ineligible to receive a grant during such calendar year. For filings by mail,
105 the postmark cancellation shall govern the date of the filing determination.

106 B. Applications for grants shall include (i) identification of the community respite care organization,
107 (ii) identification of the matching funds, and (iii) such other relevant information as the Department may
108 require. As a condition of receipt of a grant, a community respite care organization shall agree to make
109 available to the Department for inspection, upon request, all relevant and applicable documents to
110 determine whether the community respite care organization meets the requirements for the receipt of
111 grants as set forth in this article, and to consent to the use by the Department, for official purposes, of
112 all relevant information relating to eligibility for the requested grant.

113 C. The Department shall review applications for grants and determine the amount of the grant to be
114 allocated to each community respite care organization. The Department shall allocate moneys in the
115 following order of priority: (i) first, to unpaid grant amounts carried forward from prior years because
116 community respite care organizations did not receive the full amount of any grant to which they were
117 eligible in the prior year, and (ii) then to other eligible applicants. If the moneys in the Fund are less
118 than the amount of grants to which applicants in any class of priority are eligible, the moneys in the
119 Fund shall be apportioned among eligible applicants in such class pro rata, based upon the amount of
120 the grant for which an applicant is eligible and the amount of money in the Fund available for
121 allocation to such class.

122 D. If a community respite care organization is allocated less than the full amount of a grant for
123 which it is eligible in any given year, the community respite care organization shall not be eligible for
124 the deficiency in that year, but the unpaid portion of the grant to which the community respite care
125 organization was eligible shall be carried forward by the Department to the following year, during
126 which it shall be in the first class of priority as provided in subsection C. A community respite care
127 organization shall have no claim against the Commonwealth with respect to any grant authorized by
128 this article.

129 E. The Department shall certify to the Comptroller the amount of grant to be allocated to eligible
130 applicants. Payments shall be made by check issued by the State Treasurer on warrant of the
131 Comptroller. The Comptroller shall not draw any warrants to issue checks for this program without a
132 specific legislative appropriation as specified in conditions and restrictions on expenditures in the
133 appropriation act.

134 F. Actions of the Department relating to the review, allocation and awarding of grants shall be
135 exempt from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) pursuant to subdivision
136 B 4 of § 9-6.14:4.1. Decisions of the Department shall be final and not subject to review or appeal.

137 G. The Department may examine the records, books, and other applicable documents to determine
138 whether the community respite care organization has satisfied the requirements for grants as set forth in
139 this section.