

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 498

An Act to amend the Code of Virginia by adding sections numbered 63.2-1704.1, 63.2-1704.2, and 63.2-1704.3, relating to the Screened Family Day Home Provider List.

[H 3]

Approved March 10, 2008

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 63.2-1704.1, 63.2-1704.2, and 63.2-1704.3 as follows:

§ 63.2-1704.1. Screened Family Day Home Provider List.

A. The Department shall establish and maintain on a website created by the Department the Screened Family Day Home Provider List (the List). Individuals who wish to offer their services as family day home providers in the Commonwealth, and who are not required to be licensed or regulated pursuant to this chapter or regulated by local ordinance pursuant to § 15.2-914, may voluntarily apply to be included in the List and may authorize the Department to disclose information contained in the List. Only unlicensed and unregulated family day home providers who are found to have (i) no founded complaints of child abuse or neglect, (ii) no convictions for an offense as defined in § 63.2-1719, and (iii) no pending charges for an offense as defined in § 63.2-1719 may be included in the List.

B. The Department shall assess a fee for reviewing and processing applications for inclusion in the List. Application fees collected pursuant to this section shall be deposited in the Screened Family Day Home Provider List Fund established in § 63.2-1704.3.

C. The applicant shall pay the cost of any background check and check of records contained in the central registry maintained pursuant to § 63.2-1515, required by § 63.2-1704.2.

§ 63.2-1704.2. Screened Family Day Home Provider List; procedure.

A. Any individual who is 18 years of age or older may apply to be included on the List.

B. A person seeking to be included on the Screened Family Day Home Provider List shall:

1. Submit to the Commissioner, at the time of application and biennially thereafter, a statement that shall include (i) the applicant's current name and any other name by which the applicant has been known; (ii) the applicant's address and telephone number; (iii) the applicant's email address, if any; (iv) verification of the applicant's date of birth; (v) the applicant's social security number; and (vi) any other personal descriptive information necessary for the purpose of obtaining a criminal history background check pursuant to this section. Any false statement, if such statement is knowingly or willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434;

2. Submit to the Commissioner, at the time of application and annually thereafter, a notarized sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the individual has ever been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Any person making a materially false statement regarding the sworn statement or affirmation shall be guilty of a Class 1 misdemeanor;

3. Submit, at the time of application for inclusion in the List and biennially thereafter, to fingerprinting and provide personal descriptive information to be forwarded by the department, along with the individual's fingerprints, through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The designated state agency shall inform the individual that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final decision is made of the individual's fitness to be included in the List.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward the record or notification to the designated state agency. The designated state agency shall, upon receipt of an individual's record that lacks disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The designated state agency shall report to the Department whether the individual meets the criteria for having responsibility for the safety and well-being of children based on whether or not the individual has ever been convicted of or is the subject of pending charges included in § 63.2-1719 or equivalent charges in another state. Copies of any information received by the designated state agency shall be available to the Department; however, further dissemination of the background check information is prohibited other than to a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

4. Authorize, at the time of application and biennially thereafter, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect.

C. Upon receipt of the information required in subsection B on forms prescribed by the Department, the Commissioner shall conduct a search of the records contained in the central registry maintained pursuant to § 63.2-1515 and a criminal history background check pursuant to this section.

D. Upon determining that the individual has (i) no founded complaints of child abuse or neglect, (ii) no convictions for an offense as defined in § 63.2-1719, and (iii) no pending charges for an offense as defined in § 63.2-1719, the Commissioner shall add the individual's name to the List. Upon notification that the individual has been convicted of any offense as defined in § 63.2-1719, that the individual has any pending charges for any offense as defined in § 63.2-1719, or that the individual has any founded complaints of child abuse or neglect, the Commissioner shall not include the individual's name on the Screened Family Day Home Provider List.

E. If an applicant is denied inclusion on the Screened Family Day Home Provider List because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry to the applicant, and shall inform the applicant that a copy of the information contained on his criminal history record may be obtained by the applicant.

F. An individual may withdraw from the List at any time by submitting a notarized affidavit to that effect to the Commissioner.

§ 63.2-1704.3. Screened Family Day Home Provider List Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Screened Family Day Home Provider List Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All application fees collected by the Department pursuant to § 63.2-1704.1, such funds as may be appropriated by the General Assembly, and any gifts, bequests, grants, or donations shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of the administration of the Screened Family Day Home Provider List. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

2. That the provisions of this act shall not become effective unless general funds or nongeneral funds effectuating the purposes of this act are included in the general appropriation act passed by the 2008 Session of the General Assembly that becomes law.