

Department of Planning and Budget 2015 Fiscal Impact Statement

1. **Bill Number:** HB 1570

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Orrock, Robert D. Sr.

3. **Committee:** Passed Both Houses

4. **Title:** Child day centers and family day homes; regulations, national background check required, report

5. **Summary:** The enrolled bill requires fingerprint-based national criminal history records checks for licensed child day centers and family day homes and requires employees and volunteers of such child day centers and family day homes to notify the provider if they are convicted of a barrier crime or subject to a founded complaint of child abuse or neglect. The bill adds the offenses that require registration in the Sex Offender and Crimes Against Minors Registry to the list of barrier crimes specific to family day homes. The bill lowers from five to four the maximum number of children for whom a family day home may provide care without a license, exclusive of the provider's children and any children who reside in the home. The bill requires (i) local commissioners of the revenue or other local business license officials to report to the Department of Social Services (DSS) semiannually the contact information for any child day center or family day home to which a business license was issued; (ii) unlicensed and unregistered family day homes, other than those in which all of the children receiving care are related to the provider by blood or marriage, to provide written notice to parents stating that the family day home is not regulated by the department and referring the parents to a website maintained by the department for additional information; and (iii) child day centers and family day homes that contract with the department to provide child care services that are funded by the Child Care and Development Block Grant to comply with all requirements established by federal law and regulation. The bill also requires DSS to (a) develop recommendations related to appropriate criminal and civil penalties for individuals who wrongfully operate a child day center or family day home without a license or provide care for more children than the maximum number permitted under their license; (b) report on the requirements established in the Child Care and Development Block Grant to the Senate Committee on Rehabilitation and Social Services and the House Committee on Health, Welfare and Institutions by December 1, 2015; (c) develop and make available to child day centers and family day homes training and technical information and assistance regarding compliance with new licensure requirements established in the bill; and (d) work with certain localities authorized to regulate and license family day homes to identify and address any differences between ordinances adopted by such localities and state regulations for the licensure of family day homes. The provisions of the bill that require licensure of family day homes providing care for five or more children have a delayed effective date of July 1, 2016. The provisions of the bill that require

fingerprint-based national criminal history records checks have a delayed effective date of July 1, 2017.

6. Budget Amendment Necessary: No. The enrolled bill provides the necessary appropriation and positions to implement the provisions of this bill.

7. Fiscal Impact Estimates: Final

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2015	-	-	-
2016	\$17,224,105	79.0	Indeterminate*
2017	\$1,141,550	14.0	Special
	\$16,066,228	79.0	Indeterminate*
2018	\$1,030,543	14.0	Special
	\$16,066,228	79.0	Indeterminate*
2019	\$1,030,543	14.0	Special
	\$16,066,228	79.0	Indeterminate*
2020	\$1,030,543	14.0	Special
	\$16,066,228	79.0	Indeterminate*
2021	\$1,030,543	14.0	Special
	\$16,066,228	79.0	Indeterminate*

*The agency has accrued a significant one-time federal Child Care Development Fund (CCDF) balance that is estimated to be \$55.4 million at the end of FY 2016. The introduced budget appropriates a portion of this anticipated balance to support the on-going cost (through FY 2022) of recent a child care subsidy rate (effective October 1, 2014) increase. As this balance is available in the current year, CCDF dollars could be used to offset some or all of this bill’s fiscal impact. However, once the CCDF balance is expended, additional general fund would be required to support the child care program’s costs or at-risk subsidies would need to be limited. For example, if CCDF funds are fully utilized to support this bill, it is estimated that the reserve would be fully expended in FY 2017 and general fund (approximately \$21.4 million in FY 2018 and \$26.3 million in FY 2019) would be required to maintain child care subsidy and licensure operations if no other federal funds are provided for this purpose.

8. Fiscal Implications:

Family Day Home Licensure

A family day home is a child day program offered in the residence of the provider or the home of any of the children in care for one through twelve children under the age of thirteen when at least one child receives care for compensation. Under current law, family day homes serving six or more children exclusive of the provider’s own children and any child who resides in the home must be licensed. This reduces the number of children in care from six to five when determining licensure threshold. By reducing the number of children for the licensure threshold, more family day homes will be subject to Department of Social Services (DSS) licensure requirements. This bill also requires providers receiving child care subsidies to comply with federal law and regulations regarding CCDF funds. CCDF requires annual monitoring of subsidy providers. It is assumed that additional family day home providers will need to be licensed and inspected by DSS while other unregulated family day homes receiving child care subsidies will now require monitoring by DSS.

Lower of Licensure Threshold

There is no way of knowing exactly how many of these unregulated family day home providers would now require and seek licensure as a result of this bill. The department estimates that as of June 30, 2014, there were approximately 63,049 unregulated family day home providers in Virginia. Of this number, it is conservatively estimated that approximately four percent or 2,522 new family day home providers would require licensure as a result of this amendment. It is unknown as to whether this population would be comprised of currently unregulated family day homes or new child care providers entering the market; however, it is assumed that DSS would ultimately have to license either.

Based on an annual inspection rate of 61.5 facilities per inspector, it is estimated that 41 additional inspectors with an average annual salary of \$59,453 will be needed as a result of the increased number of licensed family day homes. Four licensing administrators with an average salary of \$68,371 and four administrative support staff with an annual salary of \$40,000 based on a 10:1 inspector to staff ratio will be needed as well. Two senior program consultants with an average salary of \$68,371 will also be needed in the home office to provide guidance, training and technical assistance to the field. In addition, non-personnel services are estimated at \$14,368 (\$16,299 for inspectors) in the first year and \$9,205 (\$11,136 for inspectors) each year thereafter for each staff person. The non-personnel services of inspectors are greater due to their increased travel costs. Therefore, total annual cost for additional licensing staff is estimated to be \$5,055,101 in the first year and \$4,791,788 each year thereafter.

Unlicensed Subsidy Providers

The department estimates that as of June 30, 2014, there were approximately 2,119 unlicensed providers receiving payments through the VIEW and at-risk child care programs. This number includes 739 providers regulated by local ordinance, 399 voluntarily registered family day homes and 981 unlicensed child care vendors. Based on programmatic data, the department estimates that 1,429 of these providers would opt for licensure; the remaining unlicensed providers would have to submit to monitoring visits by DSS as required by federal law in order to continue receiving child care subsidies.

It is assumed that the same inspection rate would apply for licensed and unlicensed providers. Based on an annual inspection rate of 61.5 facilities per inspector, the department estimates that 24 additional inspectors with an average annual salary of \$59,453 will be needed as a result of the increased number of licensed family day homes. Two licensing administrators with an average salary of \$68,371 and two administrative support staff with an annual salary of \$40,000 based on a 10:1 inspector to staff ratio will be needed as well. In addition, non-personnel services are estimated at \$14,368 (\$16,299 for inspectors) in the first year and \$9,205 (\$11,136 for inspectors) each year thereafter for each staff person. Therefore, total annual cost for additional licensing staff is estimated to be \$2,768,732 in the first year and \$2,624,168 each year thereafter. The administrative support staff above would also make sure all required business license data is keyed into the Division of Licensing Program Health and Information Network (DOLPHIN) system.

Child Care Subsidy

The Child Care and Development Fund (CCDF) Subsidy Program provides subsidies for eligible parents to help pay for child care while they work or participate in approved education and training programs. Currently, licensed child care providers participating in the Subsidy Program are paid higher rates than unlicensed providers. The average monthly payment for a licensed child care provider is \$472 per child while the average monthly payment for an unlicensed child care provider is \$241 per child, a difference of \$231.

If all children cared for by unlicensed providers currently contracting with DSS were cared for by licensed providers, the department estimates an annual increase in subsidy payments of \$11,553,696. The department assumes that because there will be a monitoring requirement in order for unlicensed providers to receive a subsidy, most will opt for licensure to receive the increased subsidy. For purposes of this analysis, DSS assumes that 75 percent of the children currently receiving subsidized child care from an unlicensed child care provider will receive care from a licensed provider as a result of this bill, as amended. Therefore, the department estimates that child care subsidies will increase by \$8,650,250 ($\$11,553,696 \times 0.75$) annually. The cost of mandated and non-mandated child care will increase if the current enrollment in subsidized child care is maintained. Approximately 49 percent or \$4,238,633 of this increase is due to subsidies for mandated child care with the remaining 51 percent or \$4,411,639 due to subsidies for at-risk child care. Mandated child care costs must be funded. If additional funding is not provided for the increased subsidized child care costs, enrollment in at-risk child care will need to be adjusted downward.

Temporary Assistance for Needy Families (TANF)

As the cost and complexity of operating a family day home increases; the availability of lower cost childcare providers may also decrease. It is assumed that requiring DSS licensure may have an impact on unregulated family day home providers. While it cannot be determined, it is assumed that some existing family day home providers will cease operations or limit the number of children instead of becoming a licensed facility under the provisions of this bill. This assumption is based on the theory that some of the current licensure requirements may be difficult for a currently unregulated provider to meet. For example, a licensed provider must:

- meet minimum staff qualifications (includes: must speak, read, write English, have a high school diploma or GED, hold first aid and CPR certifications, 16 hours of annual training);
- ensure building and equipment standards;
- provide age appropriate and approved activities and toys; and
- provide meals according to the Child and Adult Care Food Program of the USDA.

Although new family day home providers continually enter the field, should the number of low cost family day homes decline, the ability of middle and lower income families to find affordable child care could be impacted. This in turn could force parents to leave the work force and potentially become eligible for public assistance programs (TANF, SNAP, etc.). Furthermore, if any of those parents are currently receiving TANF assistance, an additional impact to the Commonwealth is possible. The federal government requires that at least 50

percent of Virginia's TANF population, under certain criteria, engage in an approved work activity. If TANF parents stop working, Virginia could be in danger of not meeting the federal work participation requirement. The penalty for failing to maintain work participation requirements is a loss of approximately \$7.9 million in TANF funding, as well as an \$8.0 million increase in the state's maintenance of effort requirement. Since the potential impact on the TANF program cannot be determined; no fiscal implications are included in item 7.

Information Systems

While the agency would need to update its Division of Licensing Program Health and Information Network (DOLPHIN) system to include fields that capture the required data on unlicensed and unregulated family day home providers, it is assumed that this would be a minimal one-time cost as the necessary system changes could be included as part of annual revisions.

Media Campaign and Information Referral

Although the bill does not include a specific requirement for the dissemination of information, it is assumed that one would be necessary to effectively implement the bill's provisions. Many of the providers impacted by this legislation do not have any interactions with the DSS or other state agencies with regard to child care and would have no way to understand the new licensure expectations. Based on previous experience, DSS estimates the cost of a statewide bilingual media campaign to be \$750,000. This estimate is based on approximately \$40,000 per week in radio and print ads that run between \$750 and \$5,000 depending on the publication, and print materials such as flyers, pamphlets and posters that cost between \$0.35 and \$2.50 per piece.

Training

This legislation also requires DSS to develop and make available training, technical information, and assistance to child care providers, child day centers, and family day homes regarding compliance with these new licensure requirements. Additional fee revenue will be generated as the number of applications for child care licensure increases. The exact amount of revenue generated cannot be determined; however the Code of Virginia requires that licensing application fee revenue be used for training. Therefore, it is assumed that this revenue would support this mandate.

National Criminal Background Checks

This legislation gives DSS the authority to process national criminal background checks for licensed child day centers and family day homes. Currently, DSS' Office of Background Investigations (OBI) only processes and screens national background checks for individuals in children's residential facilities licensed by DSS and the Departments of Behavioral Health and Developmental Services (DBHDS) as well as for foster/adoptive parents.

OBI staff currently receives the fingerprints of the individual; scan them to the State Police who in turn, sends them to the FBI. The FBI sends the search results back to the State Police who forwards them to OBI. OBI staff determine, based on the results, if the individual is eligible to work or volunteer in a children's residential facility or become a foster/adoptive

parent. HB 412 from the 2014 session of the General Assembly directed DSS to convene a workgroup to review current state and federal laws and regulations governing criminal history background checks for child care providers, develop a plan for implementation, and complete a report by November 1, 2014. This analysis is based in part on that report.

Vendor

Due to the large volume of criminal background checks required, the workgroup recommended utilizing a fingerprint vendor to take fingerprints and electronically transmit them to the Virginia state police because of the potential administrative savings and reduced turnaround time in receiving criminal history results. A fingerprint vendor can process all fees associated with the background check, which includes fees for the state police, the FBI, the screening agency, as well as their own fee. The vendor would collect all fees and pay each agency based on the number of background checks processed. Therefore, DSS assumes the use of a fingerprint vendor as the primary means of scanning fingerprints rather than the current method where OBI scans the fingerprints. OBI would still be required to screen and process all results. The department reports that this vendor would not require any state support as it would collect an additional fee (estimated at \$10 to \$25) that would be paid by each applicant (this would be in addition to the state fees outlined above).

Additional OBI Staff

DSS has no way of knowing how many additional criminal background checks will be required as a result of this legislation. DSS estimates that approximately 71,000 additional national criminal background checks will be required annually as a result of this bill. While the legislation has an enactment date of July 1, 2017, it is assumed that most facilities would begin requiring background checks in FY 2017 in preparation for this change. OBI would need additional staff to handle this volume of background checks. With the use of a fingerprint vendor, it is estimated that each additional staff person can process approximately 8,500 background checks annually. Based on this, eight (71,000/8,500) additional full time staff (program support technicians) and one supervisor (administrative staff specialist) are needed. Using an average salary of \$32,022 for the program support technicians and \$41,685 for the administrative staff specialist, salaries and benefits for the additional staff are estimated to be \$462,573 annually. Non-personnel services, which includes rent, telephone, computer costs, and travel total \$13,158 in year one and \$7,995 each year thereafter for each additional employee. The total annual cost for the additional staff is estimated to be \$591,885 in FY 2015 and \$545,418 each year thereafter.

Other OBI Costs

In addition, DSS would incur additional systems costs to implement this bill. The Background Information System (BIS) must be updated to receive downloaded information from fingerprint companies. This one-time system upgrade is estimated to cost \$95,725. Other operating costs such as additional space and postage are estimated at \$140,616 in the first year and \$132,076 each year thereafter.

DSS estimates the total cost to implement this bill at \$1,021,564 in the first year and \$855,343 each year thereafter. It is presumed that DSS will establish a background check fee that is sufficient to allow it to break even on the operating cost of OBI as a whole. Therefore,

it is estimated that the current fee would need to be increased to approximately \$62, which includes a \$25 administration fee for OBI; a \$13 administration fee for the Virginia State Police, and a \$24 fee for the FBI.

Virginia State Police

Virginia State Police estimate that they would need five additional employees (includes four fingerprint technicians and one office services specialist) as well as office space and equipment associated with each new employee to support this legislation. State Police estimate the cost of these positions to be \$361,049 the first year and \$353,049 each year thereafter. In addition, a Global Transaction Controller estimated to cost \$48,000 would need to be purchased.

9. Specific Agency or Political Subdivisions Affected:

Department of Social Services
Virginia State Police

10. Technical Amendment Necessary: No

11. Other Comments: This bill is identical to SB 1168.

Date: 3/9/15