

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: HB 1570

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Orrock, Robert D. Sr.

3. Committee: Finance

4. Title: Unlicensed, unregistered family day homes; notice to Department of Social Services

5. Summary: This substitute bill amends the definition of a family day home to remove the exclusion for the provider's own children and children who reside in the home. The provider's own children and any children who reside in the home who are under age six and present when care is provided must now be included in determining the number of children receiving care for the purpose of licensure. In addition, this bill establishes a national criminal history record check for the following: licensure as a child welfare agency; approval as a family day home by a family day system; approval as a foster or adoptive parent; employment or to volunteer at a child welfare agency or family day home; and all adults residing in a home in which a family day home is operated. This bill further requires annual central registry searches for licensed and registered family day homes and licensed child day centers. This substitute also requires licensure for any child day center or family day home, other than those located on federal property and operated or certified by the U.S. Department of Defense, that contracts with the Department of Social Services (DSS) or a local department of social services to provide child care services funded by the Child Care and Development Fund (CCDF). The commissioner of revenue or other local business licensing officials are required to report to the department semi-annually the name, address, and contact information for any business license issued for a child day center or family day home. In addition, unlicensed and unregistered family day homes are required to submit to the Commissioner prior to operation and as required by the department thereafter a statement of intent to operate an unlicensed, unregistered family day home. The statement shall include the number of children for whom care will be provided and any other information as required by the Commissioner. This bill includes delayed enactment dates. The provisions of this bill will not become effective unless the 2014 General Assembly includes an appropriation, which effectuates the bill's purposes, in the Appropriation Act.

6. Budget Amendment Necessary: See Below. The introduced budget includes \$2.7 million general fund to support costs associated requiring licensure as a condition of participating in the child care subsidy program. It is assumed that this funding is available to offset the 'Unlicensed Subsidy Providers' costs included in this bill.

7. Fiscal Impact Estimates: Preliminary

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2015	-	-	-
2016	\$ 257,782 \$17,950,272	4.0 57.0	Special Indeterminate*
2017	\$1,667,743 \$16,905,981	21.0 57.0	Special Indeterminate*
2018	\$1,445,522 \$16,905,981	21.0 57.0	Special Indeterminate*
2019	\$1,445,522 \$16,905,981	21.0 57.0	Special Indeterminate*
2020	\$1,445,522 \$16,905,981	21.0 57.0	Special Indeterminate*
2021	\$1,445,522 \$16,905,981	21.0 57.0	Special 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 \$23.8 million in FY 2018 and \$25.2 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 bill eliminates the exclusion of the family day home provider's children and any children who reside in the home when determining licensure threshold. It requires that the provider's own children and any children who reside in the home who are under the age of six be included in determining the number of children receiving care for the purpose of licensure. Removing this exclusion and including children up to age five will make more family day homes subject to Department of Social Services (DSS) licensure requirements. Therefore, it is assumed that additional family day home providers will need to be licensed by DSS while other unregulated family day homes will forego licensure and cease operation. In addition, this legislation requires the commissioner of revenue or other local business licensing officials to report to the department on a semi-annual basis the name, address, and contact information for any business license issued for a child day center or family day home and requires every unlicensed and unregistered family day home to provide DSS with a written statement of intent to operate an unlicensed and unregistered family day home.

Licensing Staff

This legislation will impact unregulated family day home providers who will be serving six or more children when all children residing in the home under the age of six are counted towards the state licensure requirement. 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 (based on available census data) that 2.3 percent or 1,450 new family day home providers would require licensure as a result of this bill. While 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. This change in the state licensure requirement for family day homes has an enactment date of July 1, 2016; therefore, it is presumed that costs will begin in FY 2016.

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. One 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 \$2,877,844 in the first year and \$2,728,117 each year thereafter.

In addition, it is assumed that the two administrative support staff above would be responsible for entering the business license information and the statements of intent to operate for unlicensed and unregulated providers. 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.

Unlicensed Subsidy Providers

There is no way of knowing exactly how many of these unregulated child care 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 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. This change in the state licensure requirement for family day homes and child day centers receiving subsidies has an enactment date of July 1, 2016; therefore, it is presumed that costs will begin in FY 2016.

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. 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 \$2,768,732 in the first year and \$2,624,168 each year thereafter.

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 cost of mandated and non-mandated child care will increase if the current enrollment in subsidized child care is maintained. Approximately 49 percent or \$5,661,311 of this increase is due to subsidies for mandated child care with the remaining 51 percent or \$5,892,385 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.

National Criminal Background Checks

This legislation gives DSS the authority to process national criminal background checks for foster and adoptive parents as well as employees and volunteers of all licensed, registered, and regulated child welfare agencies. Child welfare agencies include child day centers, child placing agencies, children's residential facilities, family day homes, family day systems, and independent foster homes. This bill also gives DSS the authority to process national criminal background checks for any family day home or child day home, not licensed but receiving federal or state child care subsidy funds. 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. OBI currently charges \$50 for a national background check; this includes \$37 for the State Police/FBI fee and a \$13 processing fee for OBI to cover their staff and operations. Due to the Governor's 2015 budget reductions, it is anticipated that the standard fee for national criminal background checks will increase to \$60 effective July 1, 2015.

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.

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, this analysis presumes 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.

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 95,000 additional national criminal background checks will be required annually as a result of SB 1168. While the legislation has an enactment date of July 1, 2017, it is assumed that most facilities would begin requiring background checks beginning July 1, 2016 (fiscal year 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, 11 (95,000/8,500) 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 \$612,807 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 \$785,223 in FY 2017 and \$723,267 each year thereafter.

Other OBI Costs

In addition, DSS would incur additional systems costs to process the additional national criminal background checks. 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 of the national background checks required in this bill at \$1,021,564 in year 1 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. This is currently estimated to be approximately \$62, which includes a \$25 administration fee for OBI; a \$13 administration fee for the State Police, and a \$24 fee for the FBI.

Virginia State Police

Based on previous bills that were similar to this legislation, the 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. The State Police estimate the cost of these positions to be \$361,049 in 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.

Central Registry Checks

Additional OBI Staff

This legislation increases the frequency with which central registry searches must be completed annually for licensed and registered family day homes and child centers. Currently, central registry checks are required to be repeated every two to three years for these groups. By increasing the frequency of these checks, an increased number of central registry checks will be required annually.

The department estimates that approximately 69,538 additional staff, applicants, agents, and household members of licensed and registered family day homes and child centers would require annual central registry checks based on this legislation. Using the average time between required central registry checks for these groups of 2.5 years $((2 + 3) / 2)$, the department estimates that currently an average of 27,815 $(69,538 / 2.5)$ background checks are completed in any given year for this group. Therefore, 41,723 additional central registry checks will be required based on this bill. Central registry staff complete an average of 10,700 central registry checks each year. Based on this, four additional full-time staff (program support technicians) would be required annually. Using an average salary of \$32,022 for a program support technician, salaries and benefits for the additional staff are estimated to be \$200,310 annually. Non-personnel services, which includes rent, telephone, computer costs, and travel total \$14,368 in year one and \$9,205 each year thereafter for each additional employee. The total annual cost for the additional staff is estimated to be \$257,782 in FY 2015 and \$237,130 each year thereafter.

OBI currently charges \$7 for a central registry check. Due to the Governor's 2015 budget reductions, it is anticipated that the standard fee for central registry checks will increase to \$10 effective July 1, 2015. It is presumed that DSS will establish a central registry search fee sufficient to fully cover its processing and administrative costs.

9. Specific Agency or Political Subdivisions Affected:

Department of Social Services
Virginia State Police

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 2/21/15