

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: SB1239-ER

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

2. Patron: Hanger

3. Committee: Passed Both Houses

4. Title: Child day programs; exemptions from licensure.

5. Summary: Removes certain programs from the list of child day programs exempt from licensure and clarifies that such programs are not considered child day programs and therefore are not subject to licensure. The bill also modifies the terms of certain child day programs that remain listed as exempt from licensure and requires that such programs (i) file with the Commissioner of Social Services (the Commissioner), prior to beginning operation of a child day program and annually thereafter, a statement indicating the intent to operate a child day program, identifying the Code provision relied upon for exemption from licensure, and certifying that the child day program has disclosed to the parents of children in the program the fact that it is exempt from licensure; (ii) report to the Commissioner all incidents involving serious injury or death to children attending the child day program; (iii) have a person trained and certified in first aid and cardiopulmonary resuscitation (CPR) present at the child day program; (iv) comply with background check requirements established by regulations of the Board of Social Services (the Board); (v) maintain daily attendance records; (vi) have an emergency preparedness plan in place; (vii) comply with all applicable laws and regulations governing transportation of children; (viii) comply with all safe sleep practices for infants recommended by the American Academy of Pediatrics; and (ix) post in a visible location notice that the program is not licensed by the Department of Social Services and only certifies basic health and safety requirements. Enactment clauses in the bill: (i) repeal § 63.2-1716 of the Code of Virginia relating to religious-exempt child day centers; (ii) require a delayed effective date of July 1, 2018, except for the portion of the bill that repeals § 63.2-1716 of the Code of Virginia, which shall become effective on July 1, 2017; (iii) direct the Board to promulgate regulations to implement the provisions of the bill; (iv) direct the Commissioner to establish a process to inspect child day programs exempt from licensure; (v) direct the Commissioner to establish a process to gather and track aggregate data regarding child injuries and deaths that occur at such child day programs; (vi) require the Commissioner of Social Services to prepare a plan to implement the bill, including costs for implementation, and report the plan to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance by December 1, 2017; (vii) require that, if the Commissioner determines that the implementation of this bill requires funding in addition to the funding appropriated to the Department in the appropriation act, the Commissioner shall cease implementation of the bill until funding is appropriated by the

General Assembly; (viii) require the Department of Social Services to analyze and report whether child day programs exempt from licensure under subdivision B of § 63.2-1715 of the Code of Virginia should remain exempt from the requirements imposed under subdivision D of § 63.2-1715 of the Code of Virginia, or whether those programs should remain subject to such requirements by December 1, 2018, and every four years thereafter; and (ix) require all child day centers that enter into contract with the Department of Social Service or a local department to provide child care services funded by the Child Care and Development Block Grant to comply with all applicable requirements imposed by federal law or regulation.

6. Budget Amendment Necessary: No. See Item 8.

7. Fiscal Impact Estimates: Final. See Item 8.

8. Fiscal Implications: This bill has enactment clauses that require the Commissioner of Social Services to prepare a plan to implement the bill, including costs for implementation, and report the plan to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Furthermore, if the Commissioner determines that the implementation of this bill requires funding in addition to the funding appropriated to the Department in the appropriation act, the Commissioner shall cease implementation of the bill until funding is appropriated by the General Assembly.

The Department of Planning and Budget estimates the total cost to implement this bill at \$138,799 in the second half of FY 2018, \$4,746,510 in FY 2019 and \$4,298,940 each year thereafter, as shown in the tables below.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017	-	-	-
2018	\$138,799	1	Special
2019	\$4,682,326 \$64,184	44 1	General Special
2020	\$4,234,756 \$64,184	44 1	General Special
2021	\$4,234,756 \$64,184	44 1	General Special
2022	\$4,234,756 \$64,184	44 1	General Special
2023	\$4,234,756 \$64,184	44 1	General Special

Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017	-	-
2018	\$138,799	Special
2019	\$64,184	Special
2020	\$64,184	Special
2021	\$64,184	Special
2022	\$64,184	Special
2023	\$64,184	Special

Additional Licensing Staff:

There is no way of knowing exactly how many child day programs exempt from licensure are currently in Virginia, nor how many operate outside of the threshold of licensure. It is also unknown how many will register with the Department of Social Services (DSS) or require health and safety inspections and staff background checks, as a result of this bill. Based on an estimate of the number of churches, camps, gyms and athletic clubs, and other child-minding services in Virginia, it is assumed that approximately 2,800 additional child day programs exempt from licensure would require health and safety inspections for the purpose of this bill.

Furthermore, until the Department is able to develop standards for exempt inspections, the length of time to complete an exempt inspection must be assumed. Because a large part of the inspection time includes traveling to the inspection site and interviewing administrators and staff, it is assumed that exempt facility inspections will take the same amount of time to inspect as licensed facilities. Based on a current annual inspection rate of 65 facilities per inspector for licensed facilities, it is estimated that 43 additional inspectors will be needed to complete approximately 2,800 mandated inspections annually. The annual cost for salary and benefits is estimated to be \$84,980 per position in FY 2019 and each year thereafter. In addition, nonpersonal services are estimated at \$16,299 in the first year and \$11,136 each year thereafter for each inspector. The nonpersonal services for inspectors are greater than for most employees due to their increased travel costs. Therefore, the total annual cost for additional licensing staff is estimated to be \$4,354,997 in the first year and \$4,132,988 each year thereafter. It should be noted, however, that the bill provides that if these costs are not funded, the Commissioner may adjust the inspection schedule to be met with existing resources.

Additional Office of Background Investigations (OBI) Staff:

The Department has no way of knowing how many additional criminal background checks or central registry searches will be required as a result of this legislation. However, it is anticipated that OBI would need additional staff to handle an increased volume of background checks and central registry searches. With the use of a fingerprint vendor, it is estimated that each additional staff person can process approximately 8,500 background checks annually.

While provisions of this legislation become effective on July 1, 2018, it is assumed that most exempt child day providers required to submit background checks would begin requiring checks in FY 2018 in preparation for this change. Therefore, funding for all staff will be needed for six months in FY 2018 and a full year beginning in FY 2019. The Department estimates that one additional full-time program support technician with an average cost for six months of salary and benefits of \$27,490 in FY 2018 and an annual cost for salary benefits of \$54,979 in FY 2019 and each year thereafter will be needed as a result of this bill. In addition, nonpersonal services are estimated at \$9,766 in the first year and \$9,205 each year thereafter for each program support technician. Therefore, the total annual cost for OBI staff is estimated to be \$37,256 in the first year and \$64,184 each year thereafter.

Other OBI Costs:

In addition, the Department would incur systems costs to implement this bill. The Background Investigation System (BIS) must be updated to add another background type for exempt facilities. This one-time system upgrade is estimated to cost \$96,000 in the first year.

It is presumed the Department will establish background check fees sufficient to allow it to break even on the operating cost of OBI as a whole. The Department will adjust OBI fees once it has enough data on the number of background check applicants, in order to recover the cost of the program. The background check portion of this bill may affect the Virginia State Police (VSP), as well. Virginia State Police have indicated that the agency can absorb up to an additional 1,200 fingerprint background checks annually. If the number of checks exceeds 1,200, VSP will need additional appropriation for this purpose.

The fee breakdown for background checks is:

Background check fee breakdown for employees	
FBI	\$12
VSP	\$13
OBI	\$23
TOTAL	\$48

Background check fee breakdown for volunteers	
FBI	\$11
VSP	\$8
OBI	\$10
TOTAL	\$29

Additional Central Office Staff:

The Department estimates that one administrative support staff with an annual cost for salary and benefits of \$67,563 in FY 2019 and each year thereafter will be needed as a result of this bill. In addition, nonpersonal services are estimated at \$9,766 in the first year and \$9,205

each year thereafter. This employee will coordinate the registration process for child day programs exempt from licensure, as well as handle data entry. The total annual cost for Central Office staff as a result of this bill is estimated to be \$49,091 in the first year and \$76,768 each year thereafter.

Information Systems:

The agency would need to update its Division of Licensing Program Health and Information Network (DOLPHIN) system to incorporate a registry to capture all the information for exempt facilities, as well as add a new inspection type for exempt facilities. It is assumed that this would be an estimated one-time cost of \$250,000 in the first year and an estimated \$25,000 for annual maintenance each year thereafter.

Additional Information

The Department of Social Services has indicated that the inspection schedule for exempt facilities is to their determination and has indicated that a more protracted schedule than the one currently in place for licensed facilities would allow the agency to complete the inspection requirements of this bill within its current appropriation.

Furthermore, the Department has indicated that no general fund is needed to implement this bill and that the central office costs and the OBI systems costs may be able to be absorbed through nongeneral fund sources.

9. Specific Agency or Political Subdivisions Affected: Department of Social Services,
Virginia State Police

10. Technical Amendment Necessary: No.

11. Other Comments: