

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: SB 897-ER

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

2. Patron: Wexton, J.

3. Committee: Passed Both Houses

4. Title: Child care providers; criminal history background check; penalty.

5. Summary: Requires the following individuals to undergo a fingerprint-based national criminal history background check: (i) applicants for employment by, employees of, applicants to serve as volunteers with, and volunteers with any licensed family day system, child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, or family day home approved by a family day system; (ii) applicants for licensure as a family day system, registration as a family day home, or approval as a family day home by a family day system, as well as their agents and any adult living in such family day home; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant, as well as the applicant's current or prospective employees and volunteers, agents, and any adult living in the child day center or family day home. The bill also mandates that all background checks required pursuant to §§ 63.2-1720.1 and 63.2-1721.1 of the Code of Virginia be completed by September 30, 2017, or by the date specified on any federal waiver obtained by the Commonwealth, and every five years thereafter. The bill sunsets on July 1, 2018. The bill further provides that if any corresponding provision of the federal Child Care and Development Block Grant Act of 2014 is repealed prior to July 1, 2018, the provisions of this act enacting such requirement shall expire upon the date of such repeal.

6. Budget Amendment Necessary: No. The introduced Governor's Budget Bill provides the necessary appropriation and positions to implement the provisions of this legislation.

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017	199,922	3	nongeneral
2018	184,433	3	nongeneral
2019	-	-	-
2020	-	-	-
2021	-	-	-
2022	-	-	-
2023	-	-	-

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017	199,922	nongeneral
2018	184,433	nongeneral
2019	-	-
2020	-	-
2021	-	-
2022	-	-
2023	-	-

- 8. Fiscal Implications:** This bill expands the national fingerprint background check requirements to include all licensed, registered, regulated and subsidy child day programs in order to comply with the federal interpretation of the Child Care and Development Block Grant Act of 2014. Currently, the Department of Social Services' (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 Department of Behavioral Health and Developmental Services as well as foster and adoptive parents. In addition, national criminal background checks will be required for licensed child day centers and family day homes effective July 1, 2017 due to the passage of HB 1570/SB 1168 during the 2015 session of the General Assembly.

As a result of this bill, additional background checks will be required for registered, regulated, and religious exempt child day programs, which include subsidy child care providers, family day systems, registered family day homes, family day homes approved by a family day system and family day homes approved by subsidy vendors. The primary costs associated with this bill are 1) additional OBI staff and 2) ongoing maintenance of the Background Information System (BIS).

Additional OBI Staff

The Department has no way of knowing how many additional criminal background checks will be required as a result of this legislation, however the Department estimates that approximately 20,500 new background checks will be required every year. 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, 3 (20,500/8,500) additional full time staff (program support technicians) are needed.

Using an average salary of \$32,022 for the program support technicians, salaries and benefits for the additional staff are estimated to be \$152,049 annually. Nonpersonal services, which include rent, telephone, computer costs, and travel total \$14,368 in FY 2017 and \$9,205 each year thereafter for each additional employee.

Information Systems Costs

The Department would incur an estimated minimal cost of \$4,769 in FY 2017 and each year thereafter, for on-going system maintenance and support for the Background Information System (BIS).

The total annual cost for this legislation was estimated to be \$199,922 in FY 2017; \$184,433 in FY 2018 and each year thereafter. Nongeneral fund appropriation for these amounts and the associated positions were included in the 2016 Appropriation Act, Chapter 780 for this purpose; therefore, a budget amendment is not needed. It is presumed that DSS background check fees will be sufficient to break even on the operating cost of OBI as a whole. Effective December 1, 2016, the Department decreased the National Criminal Background Search fee as a result of a reduction of fees for the FBI.

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

Virginia State Police (VSP):

According to the Department of State Police, funding included in the Governor's introduced budget for four additional staff to conduct background checks would be sufficient to comply with this legislation.

Loss of Federal Grant Funds

This legislation, as substituted, requires the provisions of the bill to expire on July 1, 2018. This sunset clause would put the Department out of compliance with Child Care and Development Block Grant (CCDBG) requirements, as they relate to criminal background checks, beginning in FY 2019 and would likely interfere with receipt of federal Child Care Development Fund (CCDF) grants. Based on federal child care regulations, a penalty of five percent of a state's CCDF Discretionary Funds for a fiscal year shall be withheld if the Secretary of Health and Human Services determines that the state has failed to comply with criminal background check requirements. If Virginia does not comply with federal CCDF regulations, it is assumed that the state would incur a penalty equal to five percent of its discretionary fund grant award in FY 2020 for being out of compliance in FY 2019. In FY 2017, Virginia's CCDF discretionary award is \$53,522,734. Based on this award amount, a

penalty of \$2,676,137 ($\$53,522,734 \times .05$) would be withheld from Virginia's discretionary grant award in FY 2020 and each year thereafter, until the state complies with federal regulations. If the state plans to continue to maintain the same level of service beyond FY 2019, general fund would be needed in the amount by which the grant was reduced to fund those child care expenditures previously funded by federal CCDF grant dollars.

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

10. Technical Amendment Necessary: No

11. Other Comments: The Department will adjust its fee once it has enough data on the number of background check applicants, in order to recover the cost of the program. A sunset clause places an expiration date of July 1, 2018 on this bill.