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SENATE BILL NO. 506

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact § 63.2-1737 of the Code of Virginia, relating to child-caring institutions.

Patron—Carrico (By Request)

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:**1. That § 63.2-1737 of the Code of Virginia is amended and reenacted as follows:****§ 63.2-1737. Licensure of group homes and residential facilities for children.**

A. Notwithstanding any other provisions of this subtitle, the Department shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities of children's residential facilities. The Board shall adopt regulations establishing the Department as the single licensing agency for the regulation of children's residential facilities, including group homes, which provide social services programs, with the exception of educational programs licensed by the Department of Education and facilities regulated by the Department of Juvenile Justice. Notwithstanding any other provisions of this chapter, licenses issued to children's residential facilities may be issued for periods of up to 36 successive months.

B. The Board's regulations for the regulation of children's residential facilities shall address the services required to be provided in such facilities as it may deem appropriate to ensure the health and safety of the children. In addition, the Board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the children; (ii) rules concerning allowable activities, local government- and facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

C. Notwithstanding any other provisions of this chapter, any facility (i) (a) licensed by the Commissioner as a child-caring institution as of January 1, 1987, or (b) operated or conducted under the auspices of a religious institution established in 1978, located in Atkins, Virginia, at the intersection of Pierce Road and Freedom Tabernacle Lane, and granted licensure as a child-caring institution after January 1, 1987, and that (ii) receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as adopted by the Board and in effect on January 1, 1987. ~~Effective~~ Except as provided in clause (i) (b), effective January 1, 1987, all children's residential facilities shall be licensed under the regulations for children's residential facilities.

D. Pursuant to the procedures set forth in subsection E and in addition to the authority for other disciplinary actions provided in this title, the Commissioner may issue a summary order of suspension of the license of any group home or residential facility for children, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety, and welfare of the children who are residents and the Commissioner believes the operation of the home or facility should be suspended during the pendency of such proceeding.

E. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Commissioner or his designee.

After such hearing, the Commissioner may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Commissioner had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Commissioner may require the

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59 cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who
60 are residents of a home or facility whose license has been summarily suspended pursuant to this section
61 and in any other actions necessary to reduce the risk of further harm to such residents.

62 F. In addition to the requirements set forth in subsection B, the Board's regulations shall require, as a
63 condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally
64 interviewed by Department personnel to determine the qualifications of the owner or operator before
65 granting an initial license; (ii) provide evidence of having relevant prior experience before any initial
66 license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff
67 participation in training on appropriate siting of the residential facilities for children, good neighbor
68 policies, community relations, and shaken baby syndrome and its effects; and (iv) be required to screen
69 residents prior to admission to exclude individuals with behavioral issues, such as histories of violence,
70 that cannot be managed in the relevant residential facility.

71 G. In addition, the Department shall:

72 1. Notify relevant local governments and placing and funding agencies, including the Office of
73 Children's Services, of multiple health and safety or human rights violations in residential facilities for
74 which the Department serves as lead licensure agency when such violations result in the lowering of the
75 licensure status of the facility to provisional;

76 2. Post on the Department's website information concerning the application for initial licensure of or
77 renewal, denial, or provisional licensure of any residential facility for children located in the locality;

78 3. Require all licensees to self-report lawsuits against or settlements with residential facility operators
79 relating to the health and safety or human rights of residents and any criminal charges that may have
80 been made relating to the health and safety or human rights of residents;

81 4. Require proof of contractual agreements or staff expertise to provide educational services,
82 counseling services, psychological services, medical services, or any other services needed to serve the
83 residents in accordance with the facility's operational plan;

84 5. Disseminate to local governments, or post on the Department's website, an accurate (updated
85 weekly or monthly as necessary) list of licensed and operating group homes and other residential
86 facilities for children by locality with information on services and identification of the lead licensure
87 agency; and

88 6. Modify the term of the license at any time during the term of the license based on a change in
89 compliance.