

Department of Planning and Budget 2018 Fiscal Impact Statement

1. **Bill Number:** SB121-ER

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

2. **Patron:** Wexton

3. **Committee:** Passed Both Houses

4. **Title:** Child care providers; criminal history background check; sunset and contingency.

5. **Summary:** Extends from July 1, 2018, to July 1, 2020, the expiration date and contingency on the requirement that the following individuals undergo fingerprint-based national criminal history background checks: (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 agents of such applicants 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 of 2014, 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.

6. **Budget Amendment Necessary:** No. The affected agencies have appropriation and staff for the program.

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

8. **Fiscal Implications:** This legislation will not increase the Department of Social Services' (DSS) expenditures, as the passage of this bill will allow the Department to continue the current practice of conducting comprehensive child care background checks for child care providers, as required by the federal Child Care and Development Block Grant (CCDBG) Act of 2014, until July 1, 2020.

The CCDBG Act of 2014 mandates that states require national fingerprint background checks for all child care providers who are licensed, regulated, or registered under state law or receive CCDBG funds. Chapter 189 and Chapter 751 of the Acts of Assembly 2017 required all pertinent child care providers to submit to: fingerprint based background checks, a repeat background check every five years, and an out-of-state central registry check for individuals

who have lived in another state in the previous five years. These chapters each have a sunset clause stating these provisions expire on July 1, 2018. This bill extends that expiration to July 1, 2020.

If the provisions expire on July 1, 2020, as this bill requires, Virginia will be out of compliance with the CCDBG requirements as they relate to criminal background checks, and would likely interfere with receipt of federal Child Care and Development (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 2022 for being out of compliance in FY 2021. In FY 2017, Virginia's CCDF discretionary award was \$55,372,339. Based on this award amount, a penalty of \$2,768,617 ($\$55,372,339 \times .05$) would be withheld from Virginia's discretionary grant award in FY 2022 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 2021, 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: None.