

Department of Planning and Budget

2018 Fiscal Impact Statement

1. Bill Number: SB539-S1

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

2. Patron: Hanger

3. Committee: Finance

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 certain safe sleep practices for infants; 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. The bill exempts from licensure any program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by school-age children who are enrolled in public school within such school division. The bill also modifies staffing ratios for religious-exempt child day centers. The bill directs (a) the Board to promulgate regulations to implement the provisions of the bill and (b) the Commissioner to establish a process to inspect child day programs exempt from licensure and a process to gather and track aggregate data regarding child injuries and deaths that occur at such child day programs. The bill has a delayed effective date of July 1, 2019.

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

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

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 2019, \$6,236,713 in FY 2020 and \$5,921,770 each year thereafter, as shown in the tables below.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2018	-	-	-
2019	\$138,799	1	Special
2020	\$6,172,529 \$64,184	62 1	General Special
2021	\$5,857,586 \$64,184	62 1	General Special
2022	\$5,857,586 \$64,184	62 1	General Special
2023	\$5,857,586 \$64,184	62 1	General Special
2024	\$5,857,586 \$64,184	62 1	General Special

Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2018	-	-
2019	\$138,799	Special
2020	\$64,184	Special
2021	\$64,184	Special
2022	\$64,184	Special
2023	\$64,184	Special
2024	\$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, elementary schools that may offer additional programming for school-aged children, and other child-minding services in Virginia, it is assumed that approximately 3,954 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 61 additional inspectors will be needed to complete approximately 3,954 mandated inspections annually. The annual cost for salary and benefits is estimated to be \$84,980 per position in FY 2020 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 \$6,172,529 in the first year and \$5,857,586 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.

It should also be noted that an enactment clause exempts child day programs operated by local governments from participating in health and safety inspections performed by the Department of Social Services (DSS), as long as the local government can provide satisfactory evidence that the child day program is in compliance with § 63.2-1715. The Department of Social Services still maintains the right to investigate a child day program operated by a local government if DSS receives a complaint about the program. Depending on the number of child day programs operated by local governments that provide evidence to DSS and are exempt from regular health and safety inspections, the number of annual mandated inspections, and therefore, the number of inspectors, may decrease.

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, 2019, it is assumed that most exempt child day providers required to submit background checks would begin requiring checks in FY 2019 in preparation for this change. Therefore, funding for all staff will be needed for six months in FY 2019 and a full year beginning in FY 2020. 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 2019 and an annual cost for salary benefits of \$54,979 in FY 2020 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. Depending on the number of additional background checks that will need to be processed, 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 2020 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.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.