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SENATE BILL NO. 964

Offered January 11, 2023

Prefiled January 6, 2023

A BILL to amend and reenact § 22.1-289.030 of the Code of Virginia, relating to certain child day programs exempt from licensure by the Superintendent of Public Instruction; age of children in attendance.

Patrons—Peake and Reeves

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-289.030 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-289.030. Exemptions from licensure.**

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances, and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by an accredited private school as set forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the

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59 provisions of § 22.1-289.032.

60 6. A program of recreational activities offered by local governments, staffed by local government
61 employees, and attended by school-age children. Such programs shall be subject to safety and
62 supervisory standards established by the local government offering the program.

63 7. A program offered by a local school division, operated for no more than four hours per day,
64 staffed by local school division employees, and attended by children who are at least three years of age
65 and are enrolled in public school or a preschool program within such school division. Such programs
66 shall be subject to safety and supervisory standards established by the local school division offering the
67 program.

68 8. Child-minding services offered by a business on the premises of the business to no more than four
69 children under the age of 13 at any given time and for no more than eight hours per day, provided that
70 the parent or guardian of every child receiving care is an employee of the business who is on the
71 premises of the business and can resume responsibility for the child's supervision within 30 minutes
72 upon request.

73 9. A program offered by a private school accredited by and in good standing with the Virginia
74 Council for Private Education, operated for no more than four hours per day, staffed by the accredited
75 private school's employees, and attended by *school-age* children who are at least five years of age and
76 are enrolled in the accredited private school. Such programs shall be subject to safety and supervisory
77 standards established by the Virginia Council for Private Education.

78 C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day
79 programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

80 1. File with the Superintendent annually and prior to beginning operation of a child day program a
81 statement indicating the intent to operate a child day program, identifying the specific provision of this
82 section relied upon for exemption from licensure, and certifying that the child day program has disclosed
83 in writing to the parents or guardians of the children in the program the fact that it is exempt from
84 licensure;

85 2. Report to the Superintendent all incidents involving serious physical injury to or death of children
86 attending the child day program. Reports of serious physical injuries, which shall include any physical
87 injuries that require an emergency referral to an offsite health care professional or treatment in a
88 hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business
89 day after the death occurred; and

90 3. Post in a visible location on the premises notice that the child day program is operating as a
91 program exempt from licensure with basic health and safety requirements but has no direct oversight by
92 the Department.

93 D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day
94 programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

95 1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the
96 child day program whenever children are present or at any other location in which children attending the
97 child day program are present;

98 2. Maintain daily attendance records that document the arrival and departure of all children;

99 3. Have an emergency preparedness plan in place;

100 4. Comply with all applicable laws and regulations governing transportation of children; and

101 5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

102 E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to
103 subsection B to determine compliance with the provisions of this section only upon receipt of a
104 complaint, except as otherwise provided by law.

105 F. Family day homes that are members of a licensed family day system shall not be required to
106 obtain a license from the Superintendent.