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HOUSE BILL NO. 2358

Offered January 23, 1995

A BILL to amend and reenact §§ 63.1-196 and 63.1-196.04 of the Code of Virginia, relating to family day homes.

Patrons—Cunningham, Barlow, Cantor, Crittenden, Grayson, Jones, D.C. and Spruill; Senators: Lambert, Maxwell, Miller, Y.B. and Stosch

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-196 and 63.1-196.04 of the Code of Virginia are amended and reenacted as follows:

§ 63.1-196. Licenses required; posting of licenses; variances to regulations.

A. Every person who serves as or maintains a child-caring institution, a child day center, a child day center system, a child-placing agency, a family day home required to be licensed by § 63.1-195, a family day system, or an independent foster home, shall obtain the appropriate license from the Commissioner.

B. The Commissioner shall issue the following categories of licenses: (i) child-caring institution, (ii) child day center, (iii) child day center system, (iv) child-placing agency, (v) family day home, (vi) family day system, and (vii) independent foster home.

Any two or more such licenses may be issued for concurrent operation to the same person but each license shall be issued upon a separate form. Licenses issued under this chapter may be issued for periods of up to three successive years from the date of issuance, unless sooner revoked or surrendered.

No application for a family day home license shall be considered complete unless the applicant has provided the Commissioner with notification from the governing body of the county, city, or town in which the family day home is to be operated that the operation of the family day home is consistent with the zoning and building regulations administered by the locality. If the governing body of any county, city or town fails to respond within forty-five days following receipt of a written request by certified mail, return receipt requested by an applicant for licensure, the family day home shall be deemed to comply with such zoning and building regulations for the period the license is issued pursuant to this section.

C. The license and any other documents required by the Commissioner shall be posted in a conspicuous place on the licensed premises.

D. The Commissioner may grant a variance to a regulation when the Commissioner determines that (i) a licensee or applicant has demonstrated that the implementation of a regulation would impose a substantial financial or programmatic hardship and (ii) the variance would not adversely affect the safety and well-being of children in care.

§ 63.1-196.04. Voluntary registration of family day homes; inspections; investigation upon receipt of complaint; revocation or suspension of registration.

A. Until July 1, 1996, any person who maintains a family day home serving fewer than nine children, exclusive of the provider's own children and any children who reside in the home, may apply for voluntary registration. Effective July 1, 1996, any person who maintains a family day home serving fewer than six children, exclusive of the provider's own children and any children who reside in the home, may apply for voluntary registration. An applicant shall file with the Commissioner of Social Services, prior to beginning any such operation and thereafter biennially, a statement which shall include, but not be limited to, the following:

1. The name, address, phone number, and social security number of the person maintaining the family day home;

2. The number and ages of the children to receive care;

3. A sworn statement or affirmation in which the applicant shall attest to the accuracy of the information submitted to the Commissioner for the purpose of voluntary registration as provided in this section;

4. Documentation of a criminal history record or clearance from the Central Criminal Records Exchange showing that criminal record checks were conducted as provided in § 19.2-389 on the person operating the home and any adults residing in the home and that no information with respect to convictions for offenses specified in § 63.1-198.1 was obtained; and

5. Documentation that the home has met the self-administered health and safety guidelines evaluation checklist required by the State Board of Social Services.

6. *Notification from the local governing body of the county, city, or town in which the family day*

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60 *home is to be operated that the operation of the family day home is consistent with the zoning and*
61 *building regulations administered by the locality. If the local governing body of the county, city or town*
62 *fails to respond within forty-five days following receipt of a written request by certified mail, return*
63 *receipt requested by an applicant for registration, the family day home shall be deemed to comply with*
64 *such zoning and building regulations for the period of registration pursuant to this section.*

65 Upon filing such information on forms prescribed by the Commissioner, and after having satisfied
66 the standards for voluntary registration, the Commissioner of Social Services shall issue a certificate of
67 registration to the family day home.

68 B. The Commissioner of Social Services shall contract with qualified local agencies and community
69 organizations to certify family day homes as eligible for registration, pursuant to the regulations of the
70 State Board of Social Services. If no qualified local agencies or community organizations are available,
71 the Commissioner shall implement the provisions of this section. Upon receipt of an application of a
72 qualified local agency or community organization to certify family day homes as eligible for registration,
73 the Commissioner shall cause an investigation to be made of the applicant's activities, services, facilities,
74 and financial responsibility, of the character and reputation of the officers and agents of the applicant,
75 and of its compliance with standards and requirements which shall be established for the issuance of
76 such contracts.

77 C. The State Board of Social Services shall promulgate regulations in accordance with the
78 Administrative Process Act (§ 9-6.14:1 et seq.) to implement the provisions of this section. Such
79 regulations shall provide guidelines for the following:

80 1. The identification of family day homes which may meet the standards for voluntary registration
81 provided in subsection A;

82 2. The establishment of qualifications for local agencies and community organizations to which a
83 contract may be issued by the Commissioner for the certification of family day homes as eligible for
84 registration, and standards for the purpose of ensuring compliance with the standards and requirements
85 of the contract, including monitoring and random inspections;

86 3. The establishment of standards and requirements for contracts to qualified local agencies and
87 community organizations by the Commissioner, upon review of the State Board of Social Services, for
88 the certification of family day homes as eligible for registration;

89 4. A requirement that the contract organization shall provide administrative services, including, but
90 not limited to, processing applications for the voluntary registration of family day homes, certifying such
91 homes as eligible for registration, providing technical assistance, training and consultation with family
92 day homes, and maintaining permanent records regarding all family day homes which it may certify as
93 eligible for registration;

94 5. The establishment of standards for a self-administered health and safety guidelines evaluation
95 checklist;

96 6. The criteria and process for the renewal of the certificate of registration; and

97 7. A schedule for charges to be made by the contract organization or by the Department if it
98 implements the provisions of this section, for processing applications for the voluntary registration of
99 family day homes. The charges collected shall be maintained for the purpose of recovering
100 administrative costs incurred in processing applications and certifying as eligible or registering such
101 homes.

102 D. The contract organization, upon determining that a family day home has satisfied the standards for
103 voluntary registration, shall certify the home as eligible for registration on such forms as may be
104 prescribed by the Commissioner. The Commissioner, upon determining that certification has been
105 properly issued, may register the family day home.

106 E. The provisions of this section shall not apply to any family day home located in a county, city, or
107 town in which the governing body provides by ordinance for the regulation and licensing of persons
108 who provide child-care services for compensation and for the regulation and licensing of child-care
109 facilities pursuant to the provisions of § 15.1-37.3:12.

110 F. Upon receipt of a complaint concerning a registered family day home, the Commissioner shall
111 cause an investigation to be made, including on-site visits as he deems necessary, of the activities,
112 services, and facilities. The person who maintains such home shall afford the representatives of the
113 Commissioner reasonable opportunity to inspect the operator's facilities and records and to interview any
114 employees and any child or other person within his custody or control. Whenever a registered family
115 day home is determined by the Commissioner to be in noncompliance with the standards for voluntary
116 registration, the Commissioner shall give reasonable notice to the operator of the nature of the
117 noncompliance and may thereafter revoke or suspend the registration.