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SENATE BILL NO. 127

Offered January 19, 1994

A BILL to amend and reenact §§ 63.1-196.001 and 63.1-198.2 of the Code of Virginia, relating to child day programs.

Patron—Nolen

Referred to the Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-196.001 and 63.1-198.2 of the Code of Virginia are amended and reenacted as follows:

§ 63.1-196.001. Exemptions from licensure.

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

1. A child day center that has obtained an exemption pursuant to § 63.1-196.3.

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. 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 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 twenty-five 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 twenty-five days in a three-month period.

4. 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 twelve 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.

5. A program that operates no more than a total of twenty 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.

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act 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.

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision A 6 of this section shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the Commissioner.

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

9. Practice or competition in organized competitive sports leagues.

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

11. Child-minding services which 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) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within thirty minutes, and (iii) is receiving services or participating in activities offered by the establishment.

12. (Effective until July 1, 1994) A certified preschool or nursery school program operated by a private school which is accredited by a statewide accreditation organization recognized by the State Board of Education which complies with the provisions of § 63.1-196.3:1. The provisions of this subdivision shall expire on July 1, 1994.

13. A child day center owned or operated by a local governing body or by any subdivision of a local governing body; except that the physical facilities of such child day center shall be inspected annually by the local health department and the local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and the inspections shall document that the center is in

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compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes and the Statewide Fire Prevention Code or the Uniform Statewide Building Code, The provisions of § 63.1-198.2 regarding criminal record checks shall apply to child day centers exempt under this subdivision.

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

D. Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to licensure under this chapter until the appropriate regulations are promulgated.

§ 63.1-198.2. Records check by unlicensed center.

Any child day center which is exempt from licensure pursuant to § 63.1-196.3 *or subdivision A 13 of § 63.1-196.001* shall require a prospective employee or volunteer or any other person officially involved in the operations of the facility in which the center is located to first obtain a criminal records check as provided in subdivision A 11 of § 19.2-389 and shall refuse employment or work to any person who has been convicted of any offense specified in § 63.1-198.1. Such facility shall also require a prospective employee to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been convicted of or is the subject of pending charges for any offense specified in this section within the Commonwealth or any equivalent offense outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied employment because of convictions appearing on his criminal history record, the facility shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant. Further dissemination of the information provided to the facility is prohibited.

The provisions of this section referring to volunteers shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending the child day center whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children which includes the parent-volunteer's own child, in a program which operates no more than four hours per day, where the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.