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HOUSE BILL NO. 1085

Offered January 22, 1996

A BILL to amend and reenact §§ 2.1-1.7, 2.1-51.15, 9-6.25:2, 9-291.1, 22.1-19, 63.1-196.01, 63.1-196.01:1, 63.1-196.1, 63.1-196.5, 63.1-202 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 63.1-202.2 and to repeal § 63.1-202.1 of the Code of Virginia, abolishing the Child Day-Care Council.

Patrons—Cox and Callahan; Senators: Colgan and Stosch

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.7, 2.1-51.15, 9-6.25:2, 9-291.1, 22.1-19, 63.1-196.01, 63.1-196.01:1, 63.1-196.1, 63.1-196.5, 63.1-202 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.1-202.2, as follows:

§ 2.1-1.7. State councils.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

Adult Education and Literacy, Virginia Advisory Council for
Agricultural Council, Virginia
Alcohol and Drug Abuse Problems, Governor's Council on
Apprenticeship Council
Blue Ridge Regional Education and Training Council
Child Day Care and Early Childhood Programs, Virginia Council on
~~Child Day-Care Council~~
Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
Commonwealth Competition Council
Commonwealth's Attorneys' Services Council
Developmental Disabilities Planning Council, Virginia
Disability Services Council
Equal Employment Opportunity Council, Virginia
Health Services Cost Review Council, Virginia
Housing for the Disabled, Interagency Coordinating Council on
Human Rights, Council on
Human Services Information and Referral Advisory Council
Indians, Council on
Interagency Coordinating Council, Virginia
Job Training Coordinating Council, Governor's
Land Evaluation Advisory Council
Local Debt, State Council on
Maternal and Child Health Council
Military Advisory Council, Virginia
Needs of Handicapped Persons, Overall Advisory Council on the
Prevention, Virginia Council on Coordinating
Public Records Advisory Council, State
Rate-setting for Children's Facilities, Interdepartmental Council on
Revenue Estimates, Advisory Council on
Southside Virginia Marketing Council
Specialized Transportation Council
State Health Benefits Advisory Council
Status of Women, Council on the
Technology Council, Virginia
Virginia Business-Education Partnership Program, Advisory Council on the
Virginia Recycling Markets Development Council.

B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall be referred to as councils:

Council on Information Management
Higher Education, State Council of

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60 Independent Living Council, Statewide
61 Rehabilitation Advisory Council, Statewide
62 Rehabilitation Advisory Council for the Blind, Statewide
63 World Trade Council, Virginia.

64 § 2.1-51.15. Agencies for which responsible.

65 The Secretary of Health and Human Resources shall be responsible to the Governor for the following
66 agencies: Department of Health, Department for the Visually Handicapped, Department of Health
67 Professions, Department for the Aging, Department of Mental Health, Mental Retardation and Substance
68 Abuse Services, Department of Rehabilitative Services, Department of Social Services, Virginia Health
69 Services Cost Review Council, Department for Rights of Virginians With Disabilities, Department of
70 Medical Assistance Services, the Council on Indians, Governor's Employment and Training Department,
71 ~~Child Day-Care Council~~, Virginia Department for the Deaf and Hard-of-Hearing, the Virginia Council
72 on Coordinating Prevention and the Virginia Council on Child Day Care and Early Childhood Programs.
73 The Governor may, by executive order, assign any other state executive agency to the Secretary of
74 Health and Human Resources, or reassign any agency listed above to another secretary.

75 § 9-6.25:2. Policy boards, commissions and councils.

76 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
77 following policy boards, commissions and councils:

78 Apprenticeship Council
79 Athletic Board
80 Auctioneers Board
81 Blue Ridge Regional Education and Training Council
82 Board for Accountancy
83 Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects
84 Board for Barbers
85 Board for Contractors
86 Board for Cosmetology
87 Board for Geology
88 Board for Hearing Aid Specialists
89 Board for Opticians
90 Board for Professional and Occupational Regulation
91 Board for Professional Soil Scientists
92 Board for Waterworks and Wastewater Works Operators
93 Board of Agriculture and Consumer Services
94 Board of Audiology and Speech-Language Pathology
95 Board of Coal Mining Examiners
96 Board of Conservation and Recreation
97 Board of Correctional Education
98 Board of Dentistry
99 Board of Directors, Virginia Student Assistance Authorities
100 Board of Funeral Directors and Embalmers
101 Board of Health Professions
102 Board of Historic Resources
103 Board of Housing and Community Development
104 Board of Medical Assistance Services
105 Board of Medicine
106 Board of Mineral Mining Examiners
107 Board of Nursing
108 Board of Nursing Home Administrators
109 Board of Optometry
110 Board of Pharmacy
111 Board of Professional Counselors
112 Board of Psychology
113 Board of Recreation Specialists
114 Board of Social Services
115 Board of Social Work
116 Board of Surface Mining Review
117 Board of Veterinary Medicine
118 Board on Conservation and Development of Public Beaches
119 Chesapeake Bay Local Assistance Board
120 Child Day Care and Early Childhood Programs, Virginia Council on
121 ~~Child Day-Care Council~~

- 122 Commission on Local Government
- 123 Commonwealth Transportation Board
- 124 Council on Human Rights
- 125 Council on Information Management
- 126 Criminal Justice Services Board
- 127 Disability Services Council
- 128 Farmers Market Board, Virginia
- 129 Immigrant and Refugee Policy Council
- 130 Interdepartmental Council on Rate-setting for Children's Facilities
- 131 Library Board, the Library of Virginia
- 132 Marine Resources Commission
- 133 Milk Commission
- 134 Pesticide Control Board
- 135 Real Estate Appraiser Board
- 136 Real Estate Board
- 137 Reciprocity Board, Department of Motor Vehicles
- 138 Safety and Health Codes Board
- 139 Seed Potato Board
- 140 Southside Virginia Marketing Council
- 141 Specialized Transportation Council
- 142 State Air Pollution Control Board
- 143 State Board of Corrections
- 144 State Board of Elections
- 145 State Board of Health
- 146 State Board of Youth and Family Services
- 147 State Health Department, Sewage Handling and Disposal Appeal Review Board
- 148 State Library Board
- 149 State Mental Health, Mental Retardation and Substance Abuse Services Board
- 150 State Water Control Board
- 151 Substance Abuse Certification Board
- 152 Treasury Board, The, Department of the Treasury
- 153 Virginia Aviation Board
- 154 Virginia Board for Asbestos Licensing
- 155 Virginia Fire Services Board
- 156 Virginia Gas and Oil Board
- 157 Virginia Health Planning Board
- 158 Virginia Health Services Cost Review Council
- 159 Virginia Manufactured Housing Board
- 160 Virginia Parole Board
- 161 Virginia Public Telecommunications Board
- 162 Virginia Soil and Water Conservation Board
- 163 Virginia Voluntary Formulary Board
- 164 Virginia Waste Management Board
- 165 Virginia World Trade Council.
- 166 (For repeal - See Editor's note) Waste Management Facility Operators, Board for.
- 167 § 9-291.1. (Effective until July 1, 1996) Commission created; powers and duties; appointment and
- 168 terms of members; vacancies, etc.
- 169 A. There is hereby created the Commission on Early Childhood and Child Day Care Programs,
- 170 hereinafter referred to as the Commission. The purpose of the Commission shall be, through its powers
- 171 and performance of duties set forth in this chapter, to study and provide recommendations addressing the
- 172 need for quality developmental early childhood and child day care programs and services. In so doing, it
- 173 shall encourage the development of uniform policies and services to ensure the availability of quality,
- 174 affordable and accessible early childhood and child day care programs and provide a forum for
- 175 continuing the review and study of such programs and services. In addition to its own proposals, the
- 176 Commission shall coordinate the proposals and recommendations of all commissions and agencies as to
- 177 legislation affecting such programs and services.
- 178 B. The Commission shall be composed of ~~twenty~~ *nineteen* members. ~~The first members of the~~
- 179 ~~Commission so to serve shall be the members of the Joint Commission on Health Care Studying Early~~
- 180 ~~Childhood and Day Care Programs who served from January 1, 1990, to December 31, 1990. Thereafter,~~
- 181 ~~appointments~~ *Appointments* shall be made as follows: seven members from the House of Delegates to
- 182 be appointed by the Speaker of the House; four members from the Senate to be appointed by the Senate

183 Committee on Privileges and Elections; and three citizens to be appointed by the Governor, one of
184 whom shall be a representative of the business community, and one of whom shall be a representative
185 of local government. In addition, the Commissioner of Social Services, the Superintendent of Public
186 Instruction, the Director of the State Council of Higher Education, the Chancellor of the Virginia
187 Community College System, *and* the Executive Director of the Virginia Council on Child Day Care and
188 Early Childhood Programs, ~~and the Chairman of the Child Day Care Council~~ shall serve as ex officio
189 members with full voting privileges. The members of the Commission shall elect a chairman and a
190 vice-chairman annually.

191 All such members of the Commission shall serve until the expiration of their terms of office or until
192 their successors shall qualify. However, the appointments of citizen members shall be for a term of five
193 years. Subsequent appointments shall be made for similar terms, and vacancies shall be filled for the
194 unexpired terms by the persons authorized to make the original appointments.

195 Commission members shall be compensated as specified in § 14.1-18, and shall be reimbursed for
196 expenses incurred in the performance of their duties.

197 C. The Commission shall have the power and duty to:

198 1. Determine the number of at-risk four-year-olds in the Commonwealth and the number of such
199 children who are not enrolled in developmental early childhood or child day care programs;

200 2. Determine the number of school age children in the Commonwealth and the extent of the need for
201 public school day care programs;

202 3. Develop a mechanism for the phased integration of and funding for quality developmental early
203 childhood and child day care programs;

204 4. Assess the need for additional child day care services, and the types of program options desired by
205 families, including the need for employer-sponsored child day care services for state employees;

206 5. Recommend ways to promote significant parental, state and local, public-private sector, and
207 corporate involvement in and support of early childhood and child day care programs;

208 6. Monitor and evaluate the implementation of programs to provide appropriate education and
209 training for early childhood professionals and child day care providers;

210 7. Recommend eligibility criteria for participation in and appropriate ways by which early childhood
211 and day care programs may be provided which minimize the potentiality for competition between the
212 Commonwealth and private day care providers;

213 8. Review the status of agency efforts to promote the coordination and dissemination of child care
214 information and day care services;

215 9. Develop incentives to promote the recruitment and retention of qualified early childhood
216 professionals and child day care providers;

217 10. Review the provisions of and monitor the implementation of the Family Support Act of 1988, the
218 Child Care Act, P.L. 101-508, the Head Start Authorization Increase, P.L. 101-120, and such other
219 federal legislation and regulations concerning early childhood and child day care programs as may be
220 enacted, and recommend such amendments to relevant state statutes as may be necessary to ensure
221 consistency between state and federal law and regulations;

222 11. Analyze the several policy and legal issues related to early childhood and day care programs,
223 e.g., establishment of entitlement programs, effect on the compulsory school attendance laws,
224 modifications in licensing requirements, and program content, and determine the need for the
225 development of appropriate policy or changes in current state policy and laws pertaining to such issues;

226 12. Determine the appropriate mechanism for and level of funding necessary to assist low income
227 families and the working poor in obtaining quality, affordable child day care services, including the
228 impact of any state, local, or federal fiscal exigency on early childhood and child day care programs and
229 services;

230 13. Coordinate the revision and implementation of child day care licensing laws and review such
231 related matters as may be referred to it;

232 14. Monitor and coordinate health and early intervention programs for young children and such
233 children with special needs to ensure the delivery of appropriate services; and

234 15. Recommend any statutory, regulatory, or policy changes as it deems necessary to ensure the
235 viability of quality, affordable and accessible early childhood and child day care programs.

236 D. The Division of Legislative Services shall provide such staff support, both administrative and
237 professional, as the Commission may require. The Commission may request and shall receive from
238 every department, division, board, bureau, commission, authority or other agency created by this
239 Commonwealth, or to which the Commonwealth is party, or from any political subdivision of the
240 Commonwealth, cooperation and assistance as it may deem necessary in the performance of its duties.

241 E. The Commission shall report its findings and recommendations regarding early childhood and
242 child day care programs and services to the 1992 Session of the General Assembly, and thereafter,
243 report annually on the status and needs concerning such programs and services in the Commonwealth to
244 the Governor and the General Assembly.

F. This section shall expire on July 1, 1996.

§ 22.1-19. Accreditation of elementary, middle, and high schools; nursery schools; child day center regulation.

The Board shall provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it. The Board may provide for the accreditation of private elementary, middle, and high schools in accordance with standards prescribed by it, taking reasonably into account the special circumstances and factors affecting such private schools. The Board in its discretion may recommend provisions for standards for private nursery schools. Any such accreditation shall be at the request of the private school only.

The Board shall promulgate accreditation regulations that incorporate, but may exceed, the regulations for child day centers promulgated by ~~the Child Day-Care Council~~ *the State Board of Social Services*, for those child day centers described in subdivision A 7 of § 63.1-196.001.

§ 63.1-196.01. Dual licenses for certain child day centers.

Any facility licensed as a child day center which also meets the requirements for a license as a summer camp by the Department of Health under the provisions of § 35.1-18 shall be entitled to a summer camp license. Such a facility shall comply with all of the regulations promulgated by the State Board of Social Services ~~or Child Day-Care Council, whichever is applicable,~~ and the State Board of Health for each such license.

§ 63.1-196.01:1. Licensure of child day center systems; licenses required for member centers; promulgation of regulations; etc.

A. The Commissioner of Social Services shall license qualified child day center systems.

B. Child day center systems shall apply regulations for child day centers, in the form promulgated by ~~the Child Day-Care Council or~~ the State Board of Social Services, to member centers. Child day center systems may apply additional operational or accreditation standards to member centers.

C. Any person who desires to operate a child day center as a member of a licensed child day center system shall, prior to beginning any such operation, apply for a license and thereafter, prior to the expiration of the license, apply for renewal thereof.

D. A child day center system shall have the right, at all reasonable times, to inspect all of the facilities, books and records of all of its member centers and to interview any agent or employee thereof or any person under its custody, control, direction, or supervision. Every member center shall afford the system reasonable opportunity for such inspections and interviews.

E. The State Board of Social Services ~~and the Child Day-Care Council~~ shall jointly promulgate regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) to implement the provisions of this section. Such regulations shall address, but need not be limited to, the following:

1. Qualifications for child day center system licensure which shall include a requirement that the system operate, manage, or accredit as members of its system, fifty or more child day centers in the Commonwealth. The State Board of Social Services, ~~the Child Day-Care Council,~~ and the State Board of Education shall collaboratively establish a formal method to recognize entities accrediting child day centers. No entity may qualify for licensure as a child day center system on the basis that it accredits fifty or more centers, unless recognized pursuant to such method.

2. Financial stability, organization, policies, programs, and services of the system.

3. Delineation of responsibility for the handling of complaints regarding a member center's noncompliance with regulations for child day centers, joint involvement of the Commissioner and the system in the investigation, and full disclosure of complaints received by one party to the other.

4. Disclosure and other methods to reduce or avoid conflicts of interests in the relationships among the Commissioner, the system and member centers.

5. Training for staff in the performance of their duties pursuant to this section or regulations promulgated hereunder.

6. Required functions of a system which include:

a. Handling inquiries and applications from potential member centers;

b. Conducting a full inspection of each member center to determine compliance with regulations for child day centers before making a recommendation to the Commissioner concerning initial issuance or renewal of a license;

c. Conducting at least one inspection of each member center in each calendar year in which a full inspection for initial licensure or renewal of a license is not conducted to determine compliance with regulations for child day centers;

d. Ensuring correction of any member center's noncompliance with child day center regulations;

e. Handling of complaints involving a member center's noncompliance with the system's operational or accreditation standards;

f. Establishing an appeal process for member centers affected by the system's decisions; and

g. Making recommendations to the Commissioner regarding variances requested by member centers.

7. Duties of the Commissioner which shall include:

- a. Ensuring compliance of each child day center system with applicable laws and regulations;
- b. Acting on the system's recommendation for issuance or denial of member center licenses;
- c. Revoking the license of any member center upon the recommendation of the system or upon the Department's findings;
- d. Conducting at least one unannounced inspection of each member center each calendar year to ensure compliance with regulations for child day centers;
- e. Acting on the system's recommendations regarding variances requested by member centers;
- f. Investigating reports that systems or member centers are out of compliance with state law and regulations; and
- g. Providing training and consultative services to child day center systems regarding the system's application of child day center regulations.

F. Child day centers regulated by the Board of Education shall not be eligible for membership in a child day center system.

§ 63.1-196.1. Renewal of license.

A. Every person issued a license required by § 63.1-196 which has not been suspended or revoked shall renew such license prior to its expiration. All licensed facilities shall be inspected not less than twice annually and one of those inspections shall be unannounced. Licenses issued under this chapter may be issued for periods of up to three successive years from the date of issuance. The Commissioner may extend or shorten the duration of licensure periods whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

B. The activities, services and facilities of each applicant for renewal of his license shall be subject to an inspection or examination by the Commissioner to determine if he is in compliance with current standards of the State Board or Child Day-Care Council, whichever is applicable.

§ 63.1-196.5. Application fees; regulations and schedules; use of fees; certain facilities exempt.

The State Board is authorized to establish regulations and schedules for fees to be charged for processing applications for licenses to operate child welfare agencies. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based on the capacity for children of the facility making application. Such fees shall be used for development and delivery of training for operators and staffs of child welfare agencies. These fees shall not be applicable to facilities operated by federal entities.

The State Board, in consultation with the ~~Child Day Care Council~~ and the Council on Child Day Care and Early Childhood Programs, shall develop training programs for operators and staffs of child care agencies. Such programs shall include formal and informal training offered by institutions of higher education, state and national associations representing child care professionals, local and regional early childhood educational organizations and licensed child care providers. To the maximum extent possible, the State Board shall ensure that all provider interests are represented and that no single approach to training will be given preference.

§ 63.1-202. State Board to promulgate regulations.

The State Board ~~or in the case of child day centers, the Child Day-Care Council~~ shall promulgate regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof.

§ 63.1-202.2. *Child day program committee created.*

The Commissioner shall appoint a child day program committee to advise the Department of Social Services and the State Board of Social Services on the development and regulation of child day programs and related issues. The committee shall consist of not fewer than eight and not more than twenty members who shall serve without compensation. Members shall serve at the discretion of the Commissioner, provided that no individual shall serve more than eight consecutive years. The committee shall include at least one parent-consumer, one child development specialist, one family day home provider, and one child day center provider. The committee shall be convened not less than twice annually.

2. That § 63.1-202.1 of the Code of Virginia is repealed.

3. That regulations promulgated by the Child Day-Care Council shall remain in force and effect until the effective date of replacement regulations promulgated by the State Board of Social Services pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.).

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