

## Department of Planning and Budget 2015 Fiscal Impact Statement

**1. Bill Number:** SB 1168

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Hanger, Emmett W. Jr.

**3. Committee:** Rehabilitation and Social Services

**4. Title:** Child welfare agencies, etc.; regulation

**5. Summary:** The proposed legislation establishes a national criminal history record check requirement for licensure as a child welfare agency, for approval as a family day home by a family day system, for approval as a foster or adoptive parent; for employment or to volunteer at a child welfare agency or family day home; and for all adults residing in a home in which a family day home is operated and provides that the children of a family day home provider and any children who reside in the family day home where care is provided shall be included in determining the number of children receiving care for the purpose of licensure. This bill includes a delayed effective date.

**6. Budget Amendment Necessary:** Yes. The introduced budget includes \$2.7 million general fund to support costs associated requiring licensure as a condition of participating in the child care subsidy program. All or a portion of this funding may be used to offset the cost of this bill. However, as this is not a dollar for dollar offset, this funding could not be assumed if legislation related to other aspects of child care regulation, along with this bill, is passed.

**7. Fiscal Impact Estimates:** Preliminary

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2015	-	-	-
2016	\$2,065,692 \$7,483,148	17.0 63.0	Special Indeterminate*
2017	\$1,899,471 \$6,407,879	17.0 63.0	Special Indeterminate*
2018	\$1,899,471 \$6,407,879	17.0 63.0	Special Indeterminate*
2019	\$1,899,471 \$6,407,879	17.0 63.0	Special Indeterminate*
2020	\$1,899,471 \$6,407,879	17.0 63.0	Special Indeterminate*
2021	\$1,899,471 \$6,407,879	17.0 63.0	Special Indeterminate*

\*The agency has accrued a significant one-time federal Child Care Development Fund (CCDF) balance that is estimated to be \$55.4 million at the end of FY 2016. The introduced budget appropriates a portion of this anticipated balance to support the on-going cost (through FY 2022) of recent a child care subsidy rate (effective October 1, 2014) increase. As this balance is available in the current year, CCDF dollars could be used to offset some or all of this bill's fiscal impact that relate to the licensure of additional child care providers. However, once the CCDF balance is expended, additional general fund would be required to support the bill's cost as well as the cost of continuing the subsidy rate increase.

- 8. Fiscal Implications:** A family day home is a child day program offered in the residence of the provider or the home of any of the children in care for one through twelve children under the age of thirteen when at least one child receives care for compensation. Under current law, family day homes serving six or more children exclusive of the provider's own children and any child who resides in the home must be licensed. This bill eliminates the exclusion of the family day home provider's children and any children who reside in the home when determining licensure threshold. Removing this exclusion will make more family day homes subject to Department of Social Services (DSS) licensure requirements. Therefore, it is assumed that additional providers will need to be licensed by DSS while other unregulated family day homes will forego licensure and cease operation. While this bill also excludes from licensure a family day home that is the residence of six or more children in care, the department reports, based on available data, that the impact of this exclusion is expected to be negligible and have no impact on the overall fiscal implications.

The primary costs associated with the proposed legislation are 1) additional licensing staff; 2) increased child care subsidy costs; 3) the impact on Temporary Assistance for Families (TANF); 4) a public relations media campaign and information referral to inform the public about this new licensing requirement and 5) training.

#### Licensing Staff

This legislation will impact unregulated family day home providers who will be serving six or more children when all children residing in the home are counted towards the state licensure requirement. There is no way of knowing exactly how many of these unregulated family day home providers would now require and seek licensure as a result of this bill. The department estimates that as of June 30, 2014, there were approximately 63,049 unregulated family day home providers in Virginia. Of this number, it is conservatively estimated that five percent or 3,152 new family day home providers would require licensure as a result of this bill. While it is unknown as to whether this population would be comprised of currently unregulated family day homes or new child care providers entering the market; however, it is assumed that DSS would ultimately have to license either.

Based on an annual inspection rate of 61.5 facilities per inspector, the department estimates that 51 additional inspectors with an average annual salary of \$59,453 will be needed as a result of the increased number of licensed family day homes. Five licensing administrators with an average salary of \$68,371 and 5 administrative support staff with an annual salary of \$40,000 based on a 10:1 inspector to staff ratio will be needed as well. Two senior program consultants with an average salary of \$68,371 will also be needed in the home office to provide guidance, training and technical assistance to the field. In addition, non-personnel

services are estimated at \$14,368 (\$16,299 for inspectors) in the first year and \$9,205 (\$11,136 for inspectors) each year thereafter for each staff person. The non-personnel services of inspectors are greater due to their increased travel costs. Therefore, total annual cost for additional licensing staff is estimated to be \$6,239,300 in the first year and \$5,914,031 each year thereafter.

#### Child Care Subsidy

The Child Care and Development Fund (CCDF) Subsidy Program provides subsidies for eligible parents to help pay for child care while they work or participate in approved education and training programs. Currently, licensed child care providers participating in the Subsidy Program are paid higher rates than unlicensed providers. The average monthly payment for a licensed child care provider is \$472 per child while the average monthly payment for an unlicensed child care provider is \$241 per child, a difference of \$231.

Of the estimated 3,152 family day homes that would seek licensure as a result of this legislation, the department estimates that approximately one percent, or 158 of the children cared for by these providers would receive subsidies. Therefore, their average monthly subsidy payment would increase by \$231. This equates to an increase in child care subsidies of \$437,976 ( $158 \times 231 \times 12$ ) as a result of this bill.

The cost of mandated and non-mandated child care will increase if the current enrollment in subsidized child care is maintained. Approximately 49 percent or \$214,608 of this increase is due to subsidies for mandated child care with the remaining 51 percent or \$223,298 is due to subsidies for at-risk child care. Mandated child care costs must be funded and any increased costs would be supported first with any available resources. At-risk child care is not a mandated program; therefore, the agency has indicated that it would address any funding shortfall by adjusting enrollment downward. The fiscal impact in item 7 reflects the cost of fully funding the existing caseload.

#### Temporary Assistance for Needy Families (TANF)

As the cost and difficulty of operating child care centers and homes increase; the supply of lower cost childcare providers could also decrease. It is assumed that requiring DSS licensure will have an impact on unlicensed providers. While it cannot be determined, it is assumed that some existing providers will cease operations instead of becoming a licensed provider under the provisions of this bill. This assumption is based on some of the current licensure requirements that may be difficult for a currently unregulated provider to meet. For example, a licensed provider must:

- meet minimum staff qualifications (includes: must speak, read, write English, have a high school diploma or GED, hold first aid and CPR certifications, 16 hours of annual training);
- ensure building and equipment standards;
- provide age appropriate and approved activities and toys; and
- provide meals according to the Child and Adult Care Food Program of the USDA.

Should parents leave the work force they could potentially become eligible for public assistance programs (TANF, SNAP, etc.). Furthermore, if any of those parents are currently receiving TANF assistance, an additional impact to the Commonwealth is possible. The federal government requires that at least 50 percent of Virginia's TANF population, under certain criteria, engage in an approved work activity. If TANF parents stop working, Virginia could be in danger of not meeting the federal work participation requirement. The penalty for failing to maintain work participation requirements is a loss of approximately \$7.9 million in TANF funding, as well as an \$8.0 million increase in the state's maintenance of effort requirement. Since the potential impact on the TANF program cannot be determined; no fiscal implications are included in item 7.

#### Media Campaign and Information Referral

Although the bill does not include a specific requirement for the dissemination of information, it is assumed that one would be necessary to effectively implement the bill's provisions. Many of the providers impacted by this legislation do not have any interactions with DSS or other state agencies with regard to child care and would have no way to understand the new licensure expectations. Based on previous experience, DSS estimates the cost to conduct a one-time, statewide bilingual media campaign, along with information referral services, to be approximately \$750,000. This estimate is based on approximately \$40,000 per week in radio and print ads that run between \$750 and \$5,000 depending on the publication, and print materials such as flyers, pamphlets and posters that cost between \$0.35 and \$2.50 per piece.

#### Training

This legislation requires DSS to provide training and technical information and assistance to child care providers, child day centers, and family day homes regarding the new licensure requirements for these facilities. Training costs are estimated at \$100,000 annually. Training costs will be partially covered by the revenue from the licensure of additional family day homes which is estimated at \$44,128. The Code of Virginia requires that licensure fees be used for training.

#### National Criminal Background Checks

This legislation gives DSS the authority to process national criminal background checks for foster and adoptive parents as well as employees and volunteers of all licensed, registered, and regulated child welfare agencies. Child welfare agencies include child day centers, child placing agencies, children's residential facilities, family day homes, family day systems, and independent foster homes. This bill also gives DSS the authority to process national criminal background checks for any family day home or child day home, not licensed but receiving federal or state child care subsidy funds. Currently, DSS' Office of Background Investigations (OBI) only processes and screens national background checks for individuals in children's residential facilities licensed by DSS and the Departments of Behavioral Health and Developmental Services (DBHDS) as well as for foster/adoptive parents.

OBI staff currently receives the fingerprints of the individual; scan them to the Virginia State Police who in turn, sends them to the FBI. The FBI sends the search results back to the State Police who forwards them to OBI. OBI staff determine, based on the results, if the

individual is eligible to work or volunteer in a children's residential facility or become a foster/adoptive parent. OBI currently charges \$50 for a national background check; this includes \$37 for the State Police/FBI fee and a \$13 processing fee for OBI to cover their staff and operations. Due to the Governor's 2015 budget reductions, it is anticipated that the standard fee for national criminal background checks will increase to \$60 effective July 1, 2015. This legislation limits the fee for children's residential facilities to \$40.

HB 412 from the 2014 session of the General Assembly directed DSS to convene a workgroup to review current state and federal laws and regulations governing criminal history background checks for child care providers, develop a plan for implementation, and complete a report by November 1, 2014. This analysis is based in part on that report.

#### Vendor

Due to the large volume of criminal background checks required, the workgroup recommended utilizing a fingerprint vendor to take fingerprints and electronically transmit them to the Virginia state police because of the potential administrative savings and reduced turnaround time in receiving criminal history results. A fingerprint vendor can process all fees associated with the background check, which includes fees for the state police, the FBI, the screening agency, as well as their own fee. The vendor would collect all fees and pay each agency based on the number of background checks processed. Therefore, the Department of Social Services assumes the use of a fingerprint vendor as the primary means of scanning fingerprints rather than the current method where OBI scans the fingerprints. OBI would still be required to screen and process all results. The department reports that this vendor would not require any state support as it would collect an additional fee (estimated at \$10 to \$25) that would be paid by each applicant (this would be in addition to the state fees outlined above).

#### Additional OBI Staff

DSS has no way of knowing how many additional criminal background checks will be required as a result of this legislation. DSS estimates that approximately 95,000 additional national criminal background checks will be required annually as a result of this bill. While the legislation has an enactment date of July 1, 2017 for individuals who have not had a criminal background check prior to July 1, 2015, it is assumed that most facilities would begin requiring background checks in FY 2016 in preparation for this change. OBI would need additional staff to handle this volume of background checks. With the use of a fingerprint vendor, it is estimated that each additional staff person can process approximately 8,500 background checks annually. Based on this, 11 (95,000/8,500) additional full time program support technicians and one supervisor are needed.

Using an average salary of \$32,022 for the program support technicians and \$41,685 for the administrative staff specialist, salaries and benefits for the additional staff are estimated to be \$612,807 annually. Non-personnel services, which includes rent, telephone, computer costs, and travel total \$14,368 in year one and \$9,205 each year thereafter for each additional employee. The total annual cost for the additional staff is estimated to be \$785,223 in FY 2015 and \$723,267 each year thereafter.

#### Other OBI Costs

In addition, DSS would incur additional systems costs to implement this bill. The Background Information System (BIS) must be updated to receive downloaded information from fingerprint companies. This one-time system upgrade is estimated to cost \$95,725. Other operating costs such as additional space and postage are estimated at \$140,616 in the first year and \$132,076 each year thereafter.

DSS estimates the total cost to implement the proposed legislation at \$1,021,564 in the first year and \$855,343 each year thereafter. It is presumed that DSS will establish a background check fee that is sufficient to allow it to break even on the operating cost of OBI as a whole. This is currently estimated to be approximately \$62, which includes a \$25 administration fee for OBI; a \$13 administration fee for the State Police, and a \$24 fee for the FBI.

#### Virginia State Police

It is estimated that the Virginia State Police would receive between \$1.0 million and \$1.2 million in additional fee revenue. The State Police estimate that they would need five additional employees (includes four fingerprint technicians and one office services specialist) as well as office space and equipment associated with each new employee to support this legislation. State Police estimate the cost of these positions to be \$361,049 the first year and \$353,049 each year thereafter. In addition, a Global Transaction Controller estimated to cost \$48,000 would need to be purchased. The amounts in item 7 reflect the appropriation of \$1.0 million, to cover the minimum amount of anticipated fee revenue, as well as the five nongeneral fund positions.

#### **9. Specific Agency or Political Subdivisions Affected:**

Department of Social Services  
Virginia State Police

#### **10. Technical Amendment Necessary:** No

#### **11. Other Comments:** None

**Date:** 1/27/15