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## SENATE BILL NO. 419

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on January 27, 2016)

(Patron Prior to Substitute—Senator Vogel)

A *BILL to amend and reenact § 63.2-1712 of the Code of Virginia, relating to operation of a child welfare agency without a license; penalty for negligence resulting in death of or injury to a child.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1712 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1712. Offenses; penalties.**

A. Any person, and each officer and each member of the governing board of any association or corporation that operates an assisted living facility, an adult day care center, or a child welfare agency, shall be is guilty of a Class 1 misdemeanor if he:

1. Interferes with any representative of the Commissioner in the discharge of his duties under this subtitle;

2. Makes to the Commissioner or any representative of the Commissioner any report or statement, with respect to the operation of any assisted living facility, adult day care center, or child welfare agency, that is known by such person to be false or untrue;

3. Operates or engages in the conduct of an assisted living facility, an adult day care center, or a child welfare agency without first obtaining a license as required by this subtitle or after such license has been revoked or has expired and not been renewed. ~~No~~ There is no violation shall occur if the facility, center, or agency has applied to the Department for renewal prior to the expiration date of the license. Every day's violation of this subdivision shall constitute a separate offense; or

4. Operates or engages in the conduct of an assisted living facility, an adult day care center, or a child welfare agency serving more persons than the maximum stipulated in the license.

B. In any case in which a person operates or engages in the conduct of a child welfare agency without first obtaining a license he knows is required by this subtitle, and a child under the care or supervision of such child welfare agency suffers death or serious bodily injury, as defined in § 16.1-283, as a proximate result of (i) violating fire safety measures, including but not limited to fire extinguishers, smoke detectors, an emergency evacuation plan, and an attendance roster; (ii) failing to safely store hazardous material, including but not limited to household chemicals, medications, and sharp objects; or (iii) failing to safeguard against choking and drowning hazards, such person, including each officer and member of the governing body of any association or corporation that operates or engages in the conduct of the child welfare agency, is guilty of a Class 4 felony.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the Acts of Assembly of 2015 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

SENATE SUBSTITUTE

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