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## SENATE BILL NO. 1239

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee  
on February 25, 2017)

(Patron Prior to Substitute—Senator Hanger)

A BILL to amend and reenact §§ 15.2-741, 15.2-914, 19.2-392.02, 63.2-1715, 63.2-1717, 63.2-1724, and 63.2-1809 of the Code of Virginia and to repeal § 63.2-1716 of the Code of Virginia, relating to child day programs; exemptions from licensure.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-741, 15.2-914, 19.2-392.02, 63.2-1715, 63.2-1717, 63.2-1724, and 63.2-1809 of the Code of Virginia are amended and reenacted as follows:

**§ 15.2-741. Regulation of child-care services and facilities in certain counties.**

A. The board may by ordinance provide for the regulation and licensing of (i) persons who provide child-care services for remuneration and (ii) child-care facilities. "Child-care services" includes regular care, protection, or guidance during a part of a day to one or more children, not related by blood or marriage to the provider of services, while they are not attended by their parent, guardian, or person with legal custody. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services for remuneration. However, such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § ~~63.2-1716~~ subdivision B 1 of § 63.2-1715.

B. Such ordinance may be more restrictive or more extensive in scope than statutes or state regulations that may affect child-care services or child-care facilities, provided that such ordinance shall not impose additional requirements or restrictions on the construction or materials to be used in the erection, alteration, repair, or use of a residential dwelling.

**§ 15.2-914. Regulation of child-care services and facilities in certain counties and cities.**

Any (i) county that has adopted the urban county executive form of government, (ii) city adjacent to a county that has adopted the urban county executive form of government, or (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § ~~63.2-1716~~ subdivision B 1 of § 63.2-1715.

Such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities so long as such regulation remains no more extensive in scope than comparable state regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children, the physical or sexual abuse or rape of a child or any offense identified in § 63.2-1719, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

**§ 19.2-392.02. National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children, or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means any offense set forth in § 63.2-1719 or 63.2-1726.

"Barrier crime information" means the following facts concerning a person who has been arrested for,

60 or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the  
61 time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief  
62 description of the barrier crime or offenses for which the person has been arrested or has been  
63 convicted, the disposition of the charge, and any other information that may be useful in identifying  
64 persons arrested for or convicted of a barrier crime.

65 "Care" means the provision of care, treatment, education, training, instruction, supervision, or  
66 recreation to children or the elderly or disabled.

67 "Department" means the Department of State Police.

68 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or  
69 seeks to volunteer for a qualified entity.

70 "Identification document" means a document made or issued by or under the authority of the United  
71 States government, a state, a political subdivision of a state, a foreign government, political subdivision  
72 of a foreign government, an international governmental or an international quasi-governmental  
73 organization that, when completed with information concerning a particular individual, is of a type  
74 intended or commonly accepted for the purpose of identification of individuals.

75 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may  
76 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity  
77 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised  
78 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
79 operate a qualified entity.

80 "Qualified entity" means a business or organization that provides care to children or the elderly or  
81 disabled, whether governmental, private, for profit, nonprofit or voluntary, except organizations exempt  
82 pursuant to subdivision A 40 7 of § 63.2-1715.

83 B. A qualified entity may request the Department of State Police to conduct a national criminal  
84 background check on any provider who is employed by such entity. No qualified entity may request a  
85 national criminal background check on a provider until such provider has:

86 1. Been fingerprinted; and

87 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and  
88 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
89 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
90 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
91 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
92 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
93 check report, to challenge the accuracy and completeness of any information contained in any such  
94 report, and to obtain a prompt determination as to the validity of such challenge before a final  
95 determination is made by the Department; and (v) a notice to the provider that prior to the completion  
96 of the background check the qualified entity may choose to deny the provider unsupervised access to  
97 children or the elderly or disabled for whom the qualified entity provides care.

98 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
99 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
100 subsection B, the Department shall make a determination whether the provider has been convicted of or  
101 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier  
102 crime information, the Department shall access the national criminal history background check system,  
103 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other  
104 methods of identification, and shall access the Central Criminal Records Exchange maintained by the  
105 Department. If the Department receives a background report lacking disposition data, the Department  
106 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain  
107 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry  
108 within 15 business days.

109 D. Any background check conducted pursuant to this section for a provider employed by a private  
110 entity shall be screened by the Department of State Police. If the provider has been convicted of or is  
111 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
112 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
113 or disabled.

114 E. Any background check conducted pursuant to this section for a provider employed by a  
115 governmental entity shall be provided to that entity.

116 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
117 national criminal background check, the Department and the Federal Bureau of Investigation may each  
118 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
119 with the fingerprints.

120 G. The failure to request a criminal background check pursuant to subsection B shall not be  
121 considered negligence per se in any civil action.

**§ 63.2-1715. Exemptions from licensure.**

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

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.

2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. 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 25 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 25 days in a three-month period.

4. 2. 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 12 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 20 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. 3. Instructional programs offered by private schools that *serve school-age children and that* satisfy compulsory attendance laws or *provide services under* the Individuals with Disabilities Education Act, as amended, 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. 4. Instructional programs offered by public schools that serve preschool-age children ~~or that~~, satisfy compulsory attendance laws, or *provide services under* the Individuals with Disabilities Education Act, as amended, 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.

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

9. 6. Practice or competition in organized competitive sports leagues.

10. 7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and ~~child-minding services provided~~ *nurseries offered by religious institutions* to allow parents or guardians or *their designees* who are on site to attend religious worship ~~or instructional services and related activities, provided for the duration of such specified religious services or activities.~~

11. Child-minding services that 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, except for part-time employees working less than two hours per day; (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes; and (iii) is receiving or providing services or participating in activities offered by the establishment.

12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

14. 8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

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

1. *A child day program or child day center operated or conducted under the auspices of a religious institution (i) that has tax exempt status as a nonprofit religious institution in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, or (ii) for which the real property owned and exclusively occupied by such religious institution is exempt from local taxation.*

2. *A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. 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 that operates no more than a total of 20 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.*

4. *Child-minding services that 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) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.*

5. *A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.*

6. *A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children or a program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by school-age children who are enrolled in public school within such school division. Such programs shall be subject to safety and supervisory standards established by the local government or local school division offering the program.*

C. *Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 5, shall:*

1. *File with the Commissioner annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;*

2. *Report to the Commissioner all incidents involving serious injury or death to children attending the child day program. Reports of serious injuries, which shall include any injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and*

3. *Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.*

D. *Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 5 or 6, shall:*

1. *Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;*

2. *Comply with background check requirements established by regulations of the Board or otherwise provided by law;*

3. *Maintain daily attendance records that document the arrival and departure of all children;*

4. *Have an emergency preparedness plan in place;*

5. *Comply with all applicable laws and regulations governing transportation of children; and*

6. *Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.*

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

F. *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.*

**§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief.**

A. A preschool or nursery school program operated by a private school accredited by a statewide accrediting organization recognized by the Board of Education or a private school or preschool that offers to preschool-aged children a program accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission and is recognized by the Board of Education, shall be exempt from licensure under this subtitle if it complies with the provisions of this section and meets the requirements of subsection B, C or D.

B. A school described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory school attendance laws, and children below the age of compulsory school attendance also participate in such instructional programs;

2. The instructional programs for children of and below the age of eligibility for school attendance share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction, and (iv) professional training and individual teacher certification standards, all of which are required by a state-recognized accrediting organization;

3. The instructional programs described in subdivisions 1 and 2 have mixed age groups of three-year-old to six-year-old children and the number of pupils in the preschool program does not exceed 15 pupils for each instructional adult;

4. The instructional program contemplates a three-to-four-year learning cycle under a common pedagogy; and

5. Children below the age of eligibility for kindergarten attendance do not attend the instructional program for more than four hours per day.

C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment ratio at any one time during the current school year of five children age five or above to one four-year-old child as long as no child in attendance is under age four and the number of pupils in the preschool program does not exceed 12 pupils for each instructional adult.

D. A private school or preschool described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers instructional classes and has been in operation since January 1984.

2. The school does not hold itself out as a child care center, child day center, or child day program.

3. Children enrolled in the school are at least three years of age and do not attend more than (i) three hours per day and (ii) five days per week.

4. The enrolled children attend only one program offered by the school per day.

5. The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety and welfare of the children, such as but not limited to space requirements, and requires annual inspections.

E. The school shall file with the Commissioner, prior to the beginning of the school year or calendar year, as the case may be, and thereafter, annually, a statement which includes the following:

1. Intent to operate a certified preschool program;

2. Documentary evidence that the school has been accredited as provided in subsection A;

3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program *and has posted in a visible location on the premises* the fact of the program's exemption from licensure;

4. Documentary evidence that the physical facility in which the preschool program will be conducted has been inspected (i) before initial certification by the local building official and (ii) within the 12-month period prior to initial certification and at least annually thereafter by the local health department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an inspection report which documents that the facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code;

5. Documentation that the school has disclosed the following in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program, and in a written statement available to the general public: (i) the school facility is in compliance with applicable laws and

306 regulations pertaining to food services, health and sanitation, water supply, building codes, and the  
307 Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's  
308 maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff  
309 health requirements, and (iv) a description of the school's public liability insurance, if any;

310 6. Qualifications of school personnel who work in the preschool program; ~~and~~

311 7. *Certification that the school will report to the Commissioner all incidents involving serious injury*  
312 *or death to children attending the school. Reports of serious injuries, which shall include any injuries*  
313 *that require an emergency referral to an offsite health care professional or treatment in a hospital, shall*  
314 *be submitted annually. Reports of deaths shall be submitted no later than one business day after the*  
315 *death occurred; and*

316 8. Documentary evidence that the private school requires all employees of the preschool and other  
317 school employees who have contact with the children enrolled in the preschool program to obtain a  
318 criminal record check as provided in subdivision A 11 of § 19.2-389 as a condition of initial or  
319 continued employment. The school shall not hire or continue employment of any such person who has  
320 an offense specified in § 63.2-1719.

321 All accredited private schools seeking certification of preschool programs shall file such information  
322 on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of  
323 accredited private schools which comply with the provisions of subsection A.

324 F. A preschool program of a private school that has not been accredited as provided in subsection A,  
325 or which has not provided documentation to the Commissioner that it has initiated the accreditation  
326 process, shall be subject to licensure.

327 The Commissioner shall issue a provisional certificate to a private school which provides  
328 documentation to the Commissioner that it has initiated the accreditation process. The provisional  
329 certificate shall permit the school to operate its preschool program during the accreditation process  
330 period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A  
331 provisional certificate may be renewed up to an additional year if the accrediting organization provides a  
332 statement indicating it has visited the school within the previous six months and the school has made  
333 sufficient progress. Such programs shall not be subject to licensure during the provisional certification  
334 period.

335 G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner  
336 shall revoke the provisional certification and the program shall thereafter be subject to licensure.

337 H. If the preschool program of a private school which is accredited as provided in subsection A fails  
338 to file the statement and the required documentary evidence, the Commissioner shall notify the school of  
339 its noncompliance and may thereafter take such action as he determines appropriate, including notice  
340 that the program is required to be licensed.

341 I. The revocation or denial of the certification of a preschool program shall be subject to appeal  
342 pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a  
343 final agency decision shall be in accordance with the provisions of the Administrative Process Act.

344 J. Any person who has reason to believe that a private school falling within the provisions of this  
345 section is in noncompliance with any applicable requirement of this section may report the same to the  
346 Department, the local department, the local health department, or the local fire marshal, each of which  
347 may inspect the school for noncompliance, give reasonable notice to the school of the nature of its  
348 noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin  
349 the operation of the preschool program.

350 K. Upon receipt of a complaint concerning a certified preschool program of an accredited private  
351 school, or of a private school to which provisional certification has been issued, if for good cause shown  
352 there is reason to suspect that the school is in noncompliance with any provision of this section or the  
353 health or safety of the children attending the preschool program is in danger, the Commissioner shall  
354 cause an investigation to be made, including on-site visits as he deems necessary of the services,  
355 personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable  
356 opportunity to inspect the school's program, records, and facility, and to interview the employees and  
357 any child or parent or guardian of a child who is or has been enrolled in the preschool program. If,  
358 upon completion of the investigation, it is determined that the school is in noncompliance with the  
359 provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of  
360 its noncompliance and thereafter may take appropriate action as provided by law, including a suit to  
361 enjoin the operation of the preschool program.

362 L. Failure of a private school to comply with the provisions of this section, or a finding that the  
363 health and safety of the children attending the preschool program are in clear and substantial danger  
364 upon the completion of an investigation, shall be grounds for revocation of the certification issued  
365 pursuant to this section.

366 M. If a private school operates a child day program outside the scope of its instructional classes  
367 during the school year or operates a child day program during the summer, the child day program shall

be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of a private school from obtaining a license pursuant to this subtitle.

**§ 63.2-1724. Records check by unlicensed child day center; penalty.**

Any child day center that is exempt from licensure pursuant to ~~§ 63.2-1716~~ *subdivision B 1 of § 63.2-1715* shall require a prospective employee or volunteer or any other person who is expected to be alone with one or more children enrolled in the child day center to obtain within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389. However, no employee shall be permitted to work in a position that involves direct contact with a child until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. A child day center that is exempt from licensure pursuant to ~~§ 63.2-1716~~ *subdivision B 1 of § 63.2-1715* shall refuse employment or service to any person who has any offense defined in § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or 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 or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both 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.

**§ 63.2-1809. Regulated child day programs to require proof of child identity and age; report to law-enforcement agencies.**

A. Upon enrollment of a child in a regulated child day program, such child day program shall require information from the person enrolling the child regarding previous child day care and schools attended by the child. The regulated child day program shall also require that the person enrolling the child present the regulated child day program with the proof of the child's identity and age. The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

B. For purposes of this section:

"Proof of identity" means a certified copy of a birth certificate or other reliable proof of the child's identity and age.

"Regulated child day program" is one in which a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period that is licensed pursuant to § 63.2-1701, voluntarily registered pursuant to § 63.2-1704, certified as a preschool or nursery school program pursuant to § 63.2-1717, exempted from licensure as a child day center operated by a religious institution pursuant to ~~§ 63.2-1716~~ *subdivision B 1 of § 63.2-1715*, or approved as a family day home by a licensed family day system.

C. If the parent, guardian, or other person enrolling the child in a regulated child day program for longer than two consecutive days or other pattern of regular attendance does not provide the information required by subsection A within seven business days of initial attendance, such child day program shall immediately notify the local law-enforcement agency in its jurisdiction of such failure to provide the requested information.

429 D. Upon receiving notification of such failure to provide the information required by subsection A,  
430 the law-enforcement agency shall, if available information warrants, immediately submit an inquiry to  
431 the Missing Children Information Clearinghouse and, with the assistance of the local department, if  
432 available information warrants, conduct the appropriate investigation to determine whether the child is  
433 missing.

434 E. The Board shall adopt regulations to implement the provisions of this act.

435 2. That § 63.2-1716 of the Code of Virginia is repealed.

436 3. That the provisions of the first enactment of this act shall become effective on July 1, 2018,  
437 except that the provisions of this act that (i) relate to the repeal of § 63.2-1716 of the Code of  
438 Virginia; (ii) exempt from licensure pursuant to subdivision B 1 of § 63.2-1715 of the Code of  
439 Virginia, as amended by this act, child day programs and child day centers operated or conducted  
440 under the auspices of a religious institution (a) that has tax exempt status as a nonprofit religious  
441 institution in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, or (b)  
442 for which the real property owned and exclusively occupied by such religious institution is exempt  
443 from local taxation; and (iii) impose certain requirements on such child day programs and child  
444 day centers under subsections C and D of § 63.2-1715 of the Code of Virginia, as amended by this  
445 act, shall become effective on July 1, 2017.

446 4. That the Board of Social Services shall promulgate regulations to implement the provisions of  
447 this act.

448 5. That the Commissioner of Social Services (the Commissioner) shall develop and establish a  
449 process to inspect child day programs exempt from licensure, regardless of whether a complaint  
450 has been filed concerning such child day programs, in order to ensure that such child day  
451 programs are in compliance with all applicable requirements. Such inspections shall be conducted  
452 pursuant to a schedule established by the Commissioner based on available resources and  
453 appropriations. However, in cases in which a child day program exempt from licensure pursuant  
454 to § 63.2-1715 of the Code of Virginia, as amended by this act, is operated by a local government,  
455 and such local government can provide evidence satisfactory to the Commissioner that such child  
456 day program is in compliance with the requirements of § 63.2-1715 of the Code of Virginia, as  
457 amended by this act, such process shall provide for inspections of the child day program for the  
458 sole purpose of investigating complaints regarding the child day program received by the  
459 Department of Social Services.

460 6. That the Commissioner of Social Services shall develop and establish a process to gather and  
461 track aggregate data regarding child injuries and deaths that occur at child day programs exempt  
462 from licensure.

463 7. That the Commissioner of Social Services shall prepare a plan to implement the provisions of  
464 this act, which shall include the projected costs of implementation of the provisions of this act and  
465 the availability of funds appropriated to the Department of Social Services to pay such costs, and  
466 shall report such plan to the Chairmen of the House Committee on Appropriations and the Senate  
467 Committee on Finance by December 1, 2017.

468 8. That, if the Commissioner of Social Services determines that implementation of the provisions  
469 this act requires funding in addition to amounts appropriated to the Department of Social Services  
470 in the appropriation act, the Commissioner shall cease implementation of the provisions of this act  
471 and shall not enforce the requirements of this act until an amount necessary to implement the  
472 provisions of this act is appropriated by the General Assembly.

473 9. That the Department of Social Services shall (i) analyze whether child day programs exempt  
474 from licensure under subdivision B 6 of § 63.2-1715 of the Code of Virginia, as amended by this  
475 act, should remain exempt from the requirements imposed in subsection D of § 63.2-1715 of the  
476 Code of Virginia, as amended by this act, and whether any child day programs subject to the  
477 requirements of subsection D of § 63.2-1715 of the Code of Virginia, as amended by this act,  
478 should remain subject to such requirements and (ii) report such findings to the Chairmen of the  
479 Senate Committee on Rehabilitation and Social Services and the House Committee on Health,  
480 Welfare and Institutions by December 1, 2018, and at least every four years thereafter.

481 10. Notwithstanding the provisions of this act, all child day programs, including child day  
482 programs and child day centers exempt from licensure under subdivision B 1 of § 63.2-1715 of the  
483 Code of Virginia, as amended by this act, that enter into a contract with the Department of Social  
484 Services or a local department of social services to provide child care services funded by the Child  
485 Care and Development Block Grant shall comply with all applicable requirements imposed by  
486 federal law or regulation.