

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** SB675-ER

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Mason

3. **Committee:** Passed Both Houses

4. **Title:** Child care providers; fingerprint-based criminal background checks; sunset and contingency.

5. **Summary:** Repeals the sunset and contingency expiration of the requirement that the following individuals undergo fingerprint-based national criminal history background checks: (i) applicants for employment by, employees of, applicants to serve as volunteers with, and volunteers with any licensed family day system, child day center exempt from licensure due to its operation by a religious institution, registered family day home, or family day home approved by a family day system; (ii) applicants for licensure as a family day system, registration as a family day home, or approval as a family day home by a family day system, as well as agents of such applicants and any adult living in such family day home; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant Act, as well as the applicant's current or prospective employees and volunteers, agents, and any adult living in the child day center or family day home.

6. **Budget Amendment Necessary:** No.

7. **Fiscal Impact Estimates:** See Item 8.

8. **Fiscal Implications:** This legislation repeals the fourth and fifth enactments of Chapters 189 and 751 of the Acts of Assembly of 2017. These chapters established national fingerprint background check requirements for child care providers. The fourth enactment clause states that provisions of the act will expire on July 1, 2020. The fifth enactment clause states if the federal law establishing requirements for national fingerprint based criminal history checks changes or expires prior to July 1, 2020, the state law is repealed.

This legislation will allow the Department of Social Services (DSS) to continue the current practice and regulation of comprehensive child care background checks for child care providers that are required by the federal Child Care and Development Block Grant (CCDBG) Act of 2014. Therefore, this bill does not require additional fiscal resources. Additionally, this legislation provides cost avoidance for the agency. If the sunset and

contingency clauses are not repealed, DSS may face federal financial penalties related to noncompliance with the CCDBG Act of 2014.

The CCDBG Act of 2014 mandates that states require national fingerprint background checks for all child care providers who are licensed, regulated, or registered under state law or receive CCDBG funds. Senate Bill (SB) 897 and House Bill (HB) 1568 from the 2017 Session required all pertinent child care providers to submit to: fingerprint based background checks, a repeat background check every five years, and an out-of-state central registry check for individuals who have lived in another state in the previous five years. If the provisions expire, Virginia will be out of compliance with the CCDBG requirements as they relate to criminal background checks. This bill repeals the sunset clauses allowing Virginia to remain in compliance with federal law.

Based on federal child care regulations, a penalty of five percent of a state's Child Care Development Fund (CCDF) discretionary funds for a fiscal year shall be withheld if the Secretary of Health and Human Services determines that the state has failed to comply with criminal background check requirements. If Virginia ceases to comply with federal CCDF regulations as of July 1, 2020, it is assumed that the state would incur a penalty equal to five percent of its discretionary fund grant award during state fiscal year (SFY) 2021. In federal fiscal year (FFY) 2019, Virginia's CCDF discretionary award was \$99,946,327. Based on this award amount, a penalty of \$4,997,316 ($\$99,946,327 \times .05$) would be withheld from Virginia's discretionary grant award in FFY 2022 and each year thereafter, until the state complies with federal regulations.

The Governor's introduced budget transfers the CCDF grant to the Department of Education (DOE) effective July 1, 2021.

9. Specific Agency or Political Subdivisions Affected: Department of Social Services, local departments of social services, Department of Education (effective July 1, 2021)

10. Technical Amendment Necessary: No.

11. Other Comments: None.