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SENATE BILL NO. 595

Offered January 26, 1998

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, and 63.1-202 of the Code of Virginia, to amend the Code of Virginia by adding a new section numbered 63.1-202.001, and to repeal § 63.1-202.1 of the Code of Virginia, relating to the abolition of the Child Day-Care Council; review and study by the State Board.

Patrons—Ticer, Edwards, Gartlan, Howell, Lambert, Lucas, Miller, Y.B., Walker and Whipple; Delegate: Hull

Referred to the Committee on Rehabilitation and Social Services

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, and 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 63.1-202.001 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
Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
Coastal Land Management Advisory Council, Virginia
Commonwealth Competition Council
Commonwealth's Attorneys' Services Council
Developmental Disabilities Planning Council, Virginia
Disability Services Council
Equal Employment Opportunity 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
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
Independent Living Council, Statewide

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SB595

60 Rehabilitation Advisory Council, Statewide
61 Rehabilitation Advisory Council for the Blind, Statewide.
62 Transplant Council, Virginia.
63 § 2.1-51.15. Agencies for which responsible.

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

73 § 9-6.25:2. Policy boards, commissions and councils.

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

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

- 122 Criminal Justice Services Board
- 123 Design-Build/Construction Management Review Board
- 124 Disability Services Council
- 125 Farmers Market Board, Virginia
- 126 Interdepartmental Council on Rate-setting for Children's Facilities
- 127 Library Board, The Library of Virginia
- 128 Marine Resources Commission
- 129 Milk Commission
- 130 Pesticide Control Board
- 131 Real Estate Appraiser Board
- 132 Real Estate Board
- 133 Reciprocity Board, Department of Motor Vehicles
- 134 Safety and Health Codes Board
- 135 Seed Potato Board
- 136 Southside Virginia Marketing Council
- 137 Specialized Transportation Council
- 138 State Air Pollution Control Board
- 139 State Board of Corrections
- 140 State Board of Elections
- 141 State Board of Health
- 142 State Board of Juvenile Justice
- 143 State Health Department, Sewage Handling and Disposal Appeal Review Board
- 144 State Library Board
- 145 State Mental Health, Mental Retardation and Substance Abuse Services Board
- 146 State Water Control Board
- 147 Substance Abuse Certification Board
- 148 Treasury Board, The, Department of the Treasury
- 149 Virginia Aviation Board
- 150 Virginia Board for Asbestos and Lead
- 151 Virginia Fire Services Board
- 152 Virginia Gas and Oil Board
- 153 Virginia Health Planning Board
- 154 Virginia Manufactured Housing Board
- 155 Virginia Parole Board
- 156 Virginia Public Broadcasting Board
- 157 Virginia Soil and Water Conservation Board
- 158 Virginia Voluntary Formulary Board
- 159 Virginia Waste Management Board
- 160 Waste Management Facility Operators, Board for.
- 161 § 9-291.1. Commission created; powers and duties; appointment and terms of members; vacancies,
- 162 etc.
- 163 A. There is hereby created the Commission on Early Childhood and Child Day Care Programs,
- 164 hereinafter referred to as the Commission. The purpose of the Commission shall be, through its powers
- 165 and performance of duties set forth in this chapter, to study and provide recommendations addressing the
- 166 need for quality developmental early childhood and child day care programs and services. In so doing, it
- 167 shall encourage the development of uniform policies and services to ensure the availability of quality,
- 168 affordable and accessible early childhood and child day care programs and provide a forum for
- 169 continuing the review and study of such programs and services. In addition to its own proposals, the
- 170 Commission shall coordinate the proposals and recommendations of all commissions and agencies as to
- 171 legislation affecting such programs and services.
- 172 B. The Commission shall be composed of eighteen members. Appointments shall be made as
- 173 follows: seven members from the House of Delegates to be appointed by the Speaker of the House; four
- 174 members from the Senate to be appointed by the Senate Committee on Privileges and Elections; and
- 175 three citizens to be appointed by the Governor, one of whom shall be a representative of the business
- 176 community, and one of whom shall be a representative of local government. In addition, the
- 177 Commissioner of Social Services, the Superintendent of Public Instruction, the Director of the State
- 178 Council of Higher Education, and the Chancellor of the Virginia Community College System shall serve
- 179 as ex officio members with full voting privileges. The members of the Commission shall elect a
- 180 chairman and a vice-chairman annually.
- 181 All such members of the Commission shall serve until the expiration of their terms of office or until
- 182 their successors shall qualify. However, the appointments of citizen members shall be for a term of five

183 years. Subsequent appointments shall be made for similar terms, and vacancies shall be filled for the
184 unexpired terms by the persons authorized to make the original appointments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

235 § 22.1-19. Accreditation of elementary, middle, and high schools; nursery schools; child day center
236 regulation.

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

243 The Board shall promulgate accreditation regulations that incorporate, but may exceed, the
244 regulations for child day centers promulgated by 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 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 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 shall 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 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.

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

308 § 63.1-196.1. Renewal of license.

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

315 The activities, services and facilities of each applicant for renewal of his license shall be subject to
316 an inspection or examination by the Commissioner to determine if he is in compliance with current
317 standards of the State Board.

318 § 63.1-196.5. Application fees; regulations and schedules; use of fees; certain facilities exempt.

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

325 The State Board shall develop training programs for operators and staffs of child care agencies. Such
326 programs shall include formal and informal training offered by institutions of higher education, state and
327 national associations representing child care professionals, local and regional early childhood educational
328 organizations and licensed child care providers. To the maximum extent possible, the State Board shall
329 ensure that all provider interests are represented and that no single approach to training will be given
330 preference.

331 § 63.1-202. State Board to promulgate regulations.

332 The State Board shall promulgate regulations for the activities, services and facilities to be employed
333 by persons and agencies required to be licensed under this chapter, which shall be designed to ensure
334 that such activities, services and facilities are conducive to the welfare of the children under the custody
335 or control of such persons or agencies.

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

341 § 63.1-202.001. Review of child day program licensure.

342 A. The State Board of Social Services shall make a comprehensive examination of the revision and
343 implementation of child day program licensing and registration standards. The State Board shall consult
344 with the American Pediatric Association in carrying out the duties under this section.

345 B. For purposes of examinations, the State Board may review records, take affidavits and interview
346 licensed and unlicensed child day program providers.

347 C. The State Board of Social Services shall coordinate the activities undertaken pursuant to this
348 section with the Department of Social Services and the Health Department to ensure an appropriate level
349 of regulatory oversight and to avoid any undue duplication of effort.

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

351 **3. That the State Board of Social Services, in cooperation with the Department of Social Services,**
352 **the Health Department, and other state agencies as appropriate, be requested to study the quality,**
353 **affordability, and accessibility of licensed and unlicensed child day care programs in the**
354 **Commonwealth.**

355 A. The study should (i) examine quality of care mechanisms currently in place for child day
356 care programs and providers, including, but not limited to, state and federal statutes and
357 regulations and review by private accrediting bodies; (ii) assess the sufficiency of these mechanisms
358 for ensuring quality and providing parents with a means of having their inquiries and complaints
359 addressed; (iii) examine how the Department of Social Services and the Department of Health
360 coordinate their roles for ensuring quality of child care and child day care in a manner which
361 minimizes duplication of resources; and (iv) identify the appropriate role of the Department of
362 Social Services and any other appropriate state agencies in monitoring the quality, affordability,
363 and accessibility of child day care programs.

364 B. The study also should consider whether changes in existing law or regulations are warranted
365 with respect to quality, health, and safety standards for all child day care programs.

366 C. The State Board of Social Services also is requested to submit a report by October 1, 1998,
367 to the Governor, the Commission on Early Childhood and Child Day Care Programs, and the

368 General Assembly which, in addition to the matters to be reported on as set forth above, (i)
369 recommends the appropriate role of the Commonwealth in monitoring and improving the quality,
370 affordability and accessibility of care in child day care programs; (ii) recommends the
371 Commonwealth's role in providing consumer information on child day care issues; and (iii)
372 assesses the licensing and registration functions for individual and institutional child day care
373 providers currently performed by the Department of Social Services.

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