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## SENATE BILL NO. 592

Offered January 26, 1998

A *BILL to amend and reenact §§ 63.1-195 and 63.1-196.04 of the Code of Virginia, relating to registration of family day homes.*

Patrons—Ticer, Couric, Edwards, Gartlan, Houck, Howell, Lucas, Marsh, Marye, Miller, Y.B., Walker and Whipple; Delegates: Albo, Almand, Darner, Hull, Keating, Moran, Plum and Puller

Referred to the Committee on Rehabilitation and Social Services

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

**1. That §§ 63.1-195 and 63.1-196.04 of the Code of Virginia are amended and reenacted as follows:**

§ 63.1-195. Definitions.

As used in this chapter:

"Adoptive home" means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Child" means any natural person under eighteen years of age.

"Child-caring institution" means any institution maintained for the purpose of receiving children for full-time care, maintenance, protection and guidance separated from their parents or guardians, except:

1. A bona fide educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by Title 35.1; and

3. A bona fide hospital legally maintained as such.

"Child day center" means a child day program offered to (i) two or more children under the age of thirteen in a facility that is not the residence of the provider or of any of the children in care or (ii) thirteen or more children at any location.

"Child day center system" means any person who is voluntarily licensed as such who operates, manages, or accredits as members of its system, fifty or more child day center sites in the Commonwealth.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of thirteen for less than a twenty-four-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.1-205 or a local board of public welfare or social services that places children in foster homes or adoptive homes pursuant to §§ 63.1-56, 63.1-204 and 63.1-220.2.

"Child-welfare agency" means a child day center, child day center system, child-placing agency, child-caring institution, family day home, family day system, or independent foster home.

"Family day home" means 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, exclusive of the provider's own children, *nieces or nephews*, and any children who reside in the home, when at least one child receives care for compensation. ~~From July 1, 1993, until July 1, 1996, family day homes serving nine through twelve children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. Effective July 1, 1996, family~~ Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. *Family day homes serving one through five children, exclusive of the provider's own children and any children who reside in the home, shall be registered, except that registration shall not be required if the provider operates on a nonregular basis for less than twenty hours a month total for all children in care.* However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed *or registered*.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of

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60 operators of member homes; technical assistance and consultation to operators of member homes;  
61 inspection, supervision, monitoring, and evaluation of member homes; and referral of children to  
62 available health and social services.

63 "Foster care services" means the provision of a full range of casework, treatment and community  
64 services for a planned period of time to a child who is abused or neglected as defined in § 63.1-248.2 or  
65 in need of services as defined in § 16.1-228 and his family when the child (i) has been identified as  
66 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through  
67 an agreement between the local board of social services or the public agency designated by the  
68 community policy and management team and the parents or guardians, (iii) has been committed or  
69 entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the  
70 supervisory responsibility of a local board pursuant to § 16.1-293.

71 "Foster care placement" means placement of a child through (i) an agreement between the parents or  
72 guardians and the local board or the public agency designated by the community policy and  
73 management team where legal custody remains with the parents or guardians, or (ii) an entrustment or  
74 commitment of the child to the local board or child welfare agency.

75 "Foster home" means the place of residence of any natural person in which any child, other than a  
76 child by birth or adoption of such person, resides as a member of the household.

77 "Group home" means a child-caring institution which is operated by any person at any place other  
78 than in an individual's family home or residence and which does not care for more than twelve children.

79 "Independent foster home" means a private family home in which any child, other than a child by  
80 birth or adoption of such person, resides as a member of the household and has been placed therein  
81 independently of a child-placing agency except (i) a home in which are received only children related by  
82 birth or adoption of the person who maintains such home and children of personal friends of such  
83 person and (ii) a home in which is received a child or children committed under the provisions of  
84 subdivision 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

85 "Independent living placement" means placement of a child at least sixteen years of age who is in  
86 the custody of a local board or licensed child-placing agency or has been placed by a local board in a  
87 living arrangement in which he does not have daily substitute parental supervision.

88 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster  
89 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other  
90 entity authorized to make such placements in accordance with the laws of the foreign country under  
91 which it operates.

92 "Interstate placement" includes the arrangement for the care of a child in an adoptive home, foster  
93 care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out  
94 of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent  
95 or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the  
96 action of any court.

97 "Permanent foster care placement" means the place of residence in which a child resides and in  
98 which he has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation  
99 and agreement between the placing agency and the place of permanent foster care that the child shall  
100 remain in the placement until he reaches the age of majority unless modified by court order or unless  
101 removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of  
102 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term  
103 basis.

104 "Person" means any natural person, or any association, partnership or corporation or other legal  
105 entity.

106 "Registered family day home" means any family day home which has met the standards for  
107 ~~voluntary~~ registration for such homes pursuant to regulations promulgated by the State Board of Social  
108 Services and which has obtained a certificate of registration from the Commissioner.

109 § 63.1-196.04. Registration of family day homes; inspections; investigation upon receipt of complaint;  
110 revocation or suspension of registration.

111 A. Until July 1, 1996, any person who maintains a family day home serving fewer than nine  
112 children, exclusive of the provider's own children and any children who reside in the home, may apply  
113 for voluntary registration. Effective July 1, 1996, any Any person who maintains a family day home  
114 serving fewer than six children, exclusive of the provider's own children, *nieces or nephews*, and any  
115 children who reside in the home, ~~may apply for voluntary registration~~ shall be registered, except that  
116 registration shall not be required if the provider operates on a nonregular basis for less than twenty  
117 hours a month total for all children in care. An applicant shall file with the Commissioner of Social  
118 Services, prior to beginning any such operation and thereafter biennially, a statement which shall  
119 include, but not be limited to, the following:

120 1. The name, address, phone number, and social security number of the person maintaining the  
121 family day home;

2. The number and ages of the children to receive care;  
 3. A sworn statement or affirmation in which the applicant shall attest to the accuracy of the information submitted to the Commissioner for the purpose of ~~voluntary~~ registration as provided in this section;

4. Documentation of a criminal history record or clearance from the Central Criminal Records Exchange showing that criminal record checks were conducted as provided in § 19.2-389 on the person operating the home and any adults residing in the home and that no information with respect to convictions for offenses specified in § 63.1-198.1 was obtained; and

5. Documentation that the home has met the self-administered health and safety guidelines evaluation checklist required by the State Board of Social Services.

Upon filing such information on forms prescribed by the Commissioner, and after having satisfied the standards for ~~voluntary~~ registration, the Commissioner of Social Services shall issue a certificate of registration to the family day home.

B. The Commissioner of Social Services shall contract with qualified local agencies and community organizations to certify family day homes as eligible for registration, pursuant to the regulations of the State Board of Social Services. If no qualified local agencies or community organizations are available, the Commissioner shall implement the provisions of this section. Upon receipt of an application of a qualified local agency or community organization to certify family day homes as eligible for registration, the Commissioner shall cause an investigation to be made of the applicant's activities, services, facilities, and financial responsibility, of the character and reputation of the officers and agents of the applicant, and of its compliance with standards and requirements which shall be established for the issuance of such contracts.

C. The State Board of Social Services shall promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) to implement the provisions of this section. Such regulations shall provide guidelines for the following:

1. The identification of family day homes which may meet the standards for ~~voluntary~~ registration provided in subsection A;

2. The establishment of qualifications for local agencies and community organizations to which a contract may be issued by the Commissioner for the certification of family day homes as eligible for registration, and standards for the purpose of ensuring compliance with the standards and requirements of the contract, including monitoring and random inspections;

3. The establishment of standards and requirements for contracts to qualified local agencies and community organizations by the Commissioner, upon review of the State Board of Social Services, for the certification of family day homes as eligible for registration;

4. A requirement that the contract organization shall provide administrative services, including, but not limited to, processing applications for the ~~voluntary~~ registration of family day homes, certifying such homes as eligible for registration, providing technical assistance, training and consultation with family day homes, and maintaining permanent records regarding all family day homes which it may certify as eligible for registration;

5. The establishment of standards for a self-administered health and safety guidelines evaluation checklist;

6. The criteria and process for the renewal of the certificate of registration; ~~and~~

7. A schedule for charges to be made by the contract organization or by the Department if it implements the provisions of this section, for processing applications for the ~~voluntary~~ registration of family day homes. The charges collected shall be maintained for the purpose of recovering administrative costs incurred in processing applications and certifying as eligible or registering such homes; *and*

8. *The procedures for providers to appeal denials, revocations and refusals to renew registrations.*

D. The contract organization, upon determining that a family day home has satisfied the standards for ~~voluntary~~ registration, shall certify the home as eligible for registration on such forms as may be prescribed by the Commissioner. The Commissioner, upon determining that certification has been properly issued, may register the family day home.

E. The provisions of this section shall not apply to any family day home located in a county, city, or town in which the governing body provides by ordinance for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities pursuant to the provisions of ~~§ 15.1-37.3:12~~ §§ 15.2-914 and 15.2-741.

F. Upon receipt of a complaint concerning a registered family day home, the Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, and facilities. The person who maintains such home shall afford the representatives of the Commissioner reasonable opportunity to inspect the operator's facilities and records and to interview any employees and any child or other person within his custody or control. Whenever a registered family

183 day home is determined by the Commissioner to be in noncompliance with the standards for ~~voluntary~~  
184 registration, the Commissioner shall give reasonable notice to the operator of the nature of the  
185 noncompliance and may thereafter revoke or suspend the registration.

186 *G. The Commissioner may deny, revoke or refuse to renew the registration of any family day home*  
187 *provider for violations of this section and any regulations promulgated pursuant thereto. Any person*  
188 *aggrieved by any action of the Commissioner under provisions of this section shall have the right to a*  
189 *review in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).*

190 *H. Any court of record having chancery jurisdiction in the county or city where the family day home*  
191 *is located shall, at the suit of the Commissioner, have jurisdiction to enjoin the operation of any family*  
192 *day home operated without a registration required by this section.*