

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

Child Care Centers in the Commonwealth

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 25

**COMMONWEALTH OF VIRGINIA
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TABLE OF CONTENTS

1. Child Care - An Overview	3
2. Findings	5
3. Recommendations for Improvement As Seen by the Public	9
4. Final Recommendations by the Joint Subcommittee	10
5. Appendices:	12
A. Bills Offered to the 1985 General Assembly	
(1) House Bill No. 1444	
(2) House Bill No. 1694	
(3) House Bill No. 1695	
(4) House Bill No. 1696	
B. House Joint Resolution No. 155 of 1984	

**Report of the Joint Subcommittee Studying
Child Care Centers in the Commonwealth
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1985**

To: Honorable Charles S. Robb, Governor of Virginia
and
The General Assembly of Virginia

CHILD CARE - AN OVERVIEW

The Joint Subcommittee Studying Child Care Centers created in 1984 by House Joint Resolution No. 155 by the General Assembly was assigned the responsibility of looking at various aspects of child care in hopes of developing new ideas to cope with a problem that is increasing every year, that of providing quality care for children during the day. Today a broad-based constituency has emerged with concerned parents at the core in addition to professionals. Congress is presently looking at the day care issue and several bills have been introduced. House Resolution 4193 authorizes \$30 million in grants for each fiscal year between 1985 and 1987 to public agencies and private nonprofit organizations to start up day care services for school age children from homes where both parents work. Senate Bill 1521 contains similar provisions but provides only \$15 million between 1984 and 1986.

One problem that needs to be overcome is the misapprehension that not many children need day care services and that there are adequate resources available for those who do. In reality, most American mothers (or fathers) are not at home with their children. Mothers work today for the same financial and nonfinancial reasons as fathers work, and the most dramatic increase in female labor force participation over the last decade has been among women with children, in particular those with very young children. The percentage of mothers of children under 18 who are in the labor force has increased from 40 percent in 1970 to 60 percent in 1983. Fifty-three percent of children in two-parent families have working mothers.

While the general thought is that day care is something for poor families, the biggest users of preschool programs are the nation's elite, even when the mothers are not working, because they recognize the benefits of a good group experience for their children. Although the number of young children in our nation was smaller in the 1970's, nursery school enrollment doubled and, in 1982, 53 percent of 3 to 4 year olds from families with incomes of \$25,000 or more attended a preschool program.

Availability of such programs for infants and toddlers is still a great problem and this is recognized as being the greatest unmet demand for service by parents of children under 3 years. This is a result of the combination of more women working and a national maternity policy that defines maternity as a disability and protects income roughly six to eight weeks after childbirth. Most of these parents find it difficult to locate programs for children this young and when they do, they also find that these are prohibitively expensive. Care for a preschooler can cost \$45 to \$75 a week, \$55 to \$96 for a toddler, and \$125 for an infant (a child aged approximately 2 or under) with prices varying according to region.

Instead, many families are forced to resort to day-care homes which are generally informal neighborhood arrangements which may or may not be licensed. Even with availability being as it is today, many parents still have to juggle several different programs in order to cover the entire day and many children, known as "latchkey kids," are forced to care for themselves in an empty home for the several hours between school and the time the parents arrive home.

Unfortunately, instead of having access to more information regarding child care centers, since 1981 when national legislation turned Title XX of the Social Security Act, which funded day-care centers, into the Social Service Block Grant, no more national information has been collected on how much of the money is used for child care and its various aspects. But it is known that licensed child care centers did increase during the 1970's and the number of programs that either started subsidizing child care or were newly established child care, grew by

more than 25 percent. Churches, some of which receive some public funding, also report an increase in programs under their auspices. A new component of child care seen on the rise is the large regional or national commercial chain which now serve about ten percent of all children in child care.

Family day-care homes, as mentioned earlier, provide child care to a great number of children, but only an estimated 10 percent are licensed or registered. The USDA Child Care Food Program has brought many of these facilities out from "underground" by funding food for low-income children in both day-care centers and family day-care homes. Also, to increase supply and accessibility of such care, state and local jurisdictions are shifting from licensing provisions to only registration which provides for self-listing and self-assessment by the provider. The impact of this trend on the quality of day-care has not been assessed.

Finally, another alternative is the role of business. A 1982 national survey identified only 415 employers who were supporting child-care activities and about half of them were hospitals. Participation included, among other things, on-site services, voucher programs, financial contributions to community services, flex-hours, family sick leave policies, cafeteria style benefit package, or some form of information and referral service. At present business is not seen to play a large role in child-care activities for many reasons, including legal and financial ones. There needs to be a more widespread dissemination of information to inform businesses of these possibilities and encourage their participation.

Experts point to the many social program changes that have occurred since President Reagan took office in 1981 and tend to feel that public funding is a crucial component to quality day care. Direct funding for child-care services for low-income families has fallen nationally while simultaneously the indirect funding of child care through tax credits to middle and upper income Americans has increased.

In the mid-1970's, the largest increase in direct public funding occurred. Almost one-fifth of the federal social services fund (\$650 million) was spent by the states to provide licensed day care. State and local governments provided an additional \$150 million. In 1981, the present administration proposals to reduce overall social services expenditures by 21 percent was passed. The Child Care Food Program was cut by 30 percent. In contrast, child care tax credits, which are an indirect federal subsidy, have risen. Parents who earn enough to pay taxes can take a credit of up to \$720 on expenses of \$2,400 for one child and \$1,440 on expenses of \$4,800 for two or more. If the poverty level is \$10,178 for a family of four, it is hardly expected that these families would spend that kind of money on day care. Critics argue that this credit is in itself not bad, but it adversely affects low-income families because they are not liable for taxes. There have been suggestions to provide for a refund rather than a tax credit in order to aid those who are in the most need of such financial consideration for child care expenses.

Various approaches to solve some of the inequities which have arisen are continually being developed and tested. One of these is the information and referral (I & R) service which is a network to "match" or "fit" parents and the variety of day-care providers. California is the only state to provide a public subsidy for such programs and have 55 in operation. There are 165 additional ones operating across the country.

Another alternative being explored by states and localities allows eligible parents to spend their social services child care allotment on the program of their choice through "vouchers" or "alternative payment." It is anticipated that money could be saved by cutting administrative costs. Ideally, the programs would be prescreened, but it is not always the case.

Quality of day care has been passed to the state since federal standards were eliminated by Congress when it passed the Social Services Block Grant. The administration's view is that quality will improve as a result of competition, but it is not seen to be happening.

Most advocates and experts are of the view that our society has a great stake in the children that we raise and are responsible to a great extent for the adults they become. There are many problems in the child care area which need to be met head-on and solved. Many have been mentioned here. One great obstacle is the position of the Reagan administration which refers to child care as one of the new "women's initiatives." Child care, as many men will now tell you, is the responsibility of both mother and father, and terminology as well as attitudes are

changing in order to provide the best care available to help raise our children to be the best they can be.

In order to better assess the needs in this area in the Commonwealth, the Joint Subcommittee held two open meetings in Richmond and one public hearing in Northern Virginia. Numerous speakers, including many professionals in this area, spoke to inform us of their concerns.

FINDINGS:

The Virginia Day Care Council, created by the Advisory Board of the Division for Children in December of 1982, was assigned the task of assessing the status of child care in Virginia and to formulate avenues for improvement. They requested that a study be made by the Division for Children to assess four major areas - availability, quality, accessibility, and affordability - and found significant deficiencies in each area.

The number of working mothers in the Commonwealth has increased dramatically in recent years due to a variety of reasons. According to the 1980 census, 49.8% of mothers with children under six and 62.9% of mothers with children over six were working outside the home. This translates to over approximately 600,000 children in Virginia who have working mothers. According to this study, no region of the state was found to provide sufficient services for children of all ages from families of all income levels. The situation is so grave in some areas that in some cases would-be parents are placing themselves on waiting lists for child care before the child is conceived.

The quality of child care provided demands more than just protecting the child from harm, although this specific area has gained nationwide attention and concern in recent months, and providing a service for parents. A high quality program actively promotes the healthy development of children. Virginia's licensure standards, which are currently under extensive revision, primarily address the safety and health of children but not programmatic quality. The Council stresses three areas of quality that need further examination:

A. Care giver training - less than one-fourth of the reporting centers reported that their teachers had at least a Bachelor's Degree in early childhood education and 68% do not require their teachers to have prior experience working with children.

B. Low staff turnover is crucial to providing an aura of stability which is crucial to the emotional well-being of children.

C. Group size or the ratio of children to adult caregivers is related to quality care.

The low pay for child care workers is a disincentive to further education and job tenure. The low pay these workers receive has been likened to a subsidy of the program because it is so labor-intensive.

Accessibility to child care services is not always an indication of lack of such services but merely a lack of knowledge of them. Parents usually have to rely on word-of-mouth, newspaper advertisements, telephone directories, and community bulletin boards. These sources are helpful, but incomplete and time consuming for the parent to have to investigate each source for appropriateness.

Affordability is crucial. Even if services are available they may not be financially feasible. Families earning below the median income (50% of our families) as well as families with more than one child or an infant are likely to spend over 10% of their income to purchase day care services. Child Care subsidies to low income families are limited and only 17% of the centers sampled by the Council offered a sliding fee scale for low income families. Providers live amongst dismal financial conditions with erratic and unstable revenues. They are labor intensive so costs are hard to cut. Teachers' salaries for a full year average just over \$9,000 while teachers aides are paid less than \$7,000. There have also been funding cuts in the Title XX Program and the USDA Child Nutrition Program. Title XX funding for child care for Virginia's poorest has declined 62% since 1980-81.

- Greater numbers of individuals are in need of assistance to meet the costs of child care so that they can continue to work and this situation is the result of many factors: dramatic increase in the number of working mothers; shrinking of extended family situations so there are no "built-in" babysitters; geographic mobility so that friends and family are not available to help; increasing numbers of single parents; inflation; rise in cost of child care; increasing technical society where skills are needed in order to work; and high levels of immigration.
- Quality child care does pay off in various ways. Immediate benefits include the decrease in people on welfare and increases in the number of people paying taxes. Longer range benefits include a greater life time earning capacity for children, fewer children in special education, fewer juvenile offenders, and fewer future welfare recipients.
- There is preliminary evidence available to suggest that high-quality childhood programs for low income families actually pay for themselves in the long run. The Perry Preschool Project studied the long term effects of early childhood education on children from low income families. The study was begun in 1962 and has been following an experimental and control group of children from the age of 3 to their current age of 19. Benefits have included but are not necessarily limited to: a cost of \$2,992 per year per child, \$668 per child benefited from the mother's released time, \$3,353 per child saved by public schools because the children with preschool required fewer years of special education, and a \$10,798 per child increased life time earnings projected from educational status (all figures expressed in 1979 dollars). The benefits totaled \$14,819 per child and amounted to a 248 percent return on the original investment. As explanation: mothers were free to do other things valued at \$3.34 an hour; child care support studies on low income mothers who were receiving welfare assistance allowed 49% to leave the welfare rolls and be employed; 39% of the children with no preschool needed special education services while only 19% of the preschool group needed such; preschoolers were found to have higher scores on achievement tests and were more committed to schooling; the preschoolers as teenagers were less involved in delinquent activities; and there is preliminary evidence that as adults they were better able to avoid unemployment, need welfare assistance, drop out of high school and not commit crimes that sent them to prison.
- Some localities have begun after school enrichment programs utilizing local school buildings in order to provide quality after school activities for those children who might otherwise have to spend the several hours between school and the time their parents return home alone. These programs are an enrichment only, not educationally-oriented, and activities include cooking, arts, crafts, recreation and sports, musical activities, and the like. These types of programs have been limited to date due to restrictions under state law and a 1978 Attorney General's opinion.
- Studies show that there is a significant relationship between specialized training of adults and development of children in care. Caregivers with education and training relevant to young children deliver care with somewhat superior developmental effects for children. Unfortunately there are few incentives to encourage caregivers to attain additional education.
- The Economic Recovery Tax Act created new resources for child care by increasing tax credits for dependent care for individuals and increasing the amount employers can claim for child care benefits. Other incentives include the ability of a business to contribute, tax-free, up to 10% of taxable income to community child care centers. Unfortunately, businesses are not seen to be utilizing these provisions to a great extent.
- Lack of capital and difficulty is getting loans for a labor-intensive operation as a child care center is one of the greatest problems. Other states have approached this situation in various ways: Maryland created a revolving loan fund administered by the Department to make available loans for start-up costs and renovation; New York has similar legislation; and, Connecticut and other states have similar legislation pending.
- A recent federal law makes available start-up funds for extended day care programs operated in public schools. Unfortunately, only a few school systems have this ability as authorized by the Commonwealth.
- The State needs to take a lead from a neighboring state, North Carolina, which has included

child care as an integral part of the state's economic development package. They have been providing businesses with brochures, booklets and other forms of support and help in starting child care centers or care benefit programs for employees. Workshops could be conducted to offer technical guidance needed to go into this field. Our own Sovran Bank has made inroads in this field by offering a "flexible benefit" package with an option for child care.

- A recent survey by the Division for Children indicates that there are 600,000 children with working mothers but only 60,000 licensed child care slots. This indicates that there are a large number of children being cared for in settings independent of a regulatory system or providing "self-care", known more popular as "latch-key-care".
- There is growing feeling by many that all child care centers should be licensed, including profit, non-profit and church related centers. By not doing so it creates the atmosphere that some children are more important than others.
- There is great concern about the proposed revision of minimum standards for day care centers being developed. They are seen to be too weak and vague and would only lessen the degree of control over the quality of day care.
- Day care programs at educational institutions could provide a variety of positive aspects. They serve not only the parents of the children themselves but also college students using the centers for practicum experiences in connection with classes and various high school classes who use the center for observation or experience with children in parenting courses.
- There are many various sources of funding available for various aspects of child care, but the major problem seems to be knowledge of their existence or problems in application.

A. Tax credit - The Federal Child Care Tax Credit allows a deduction directly from the federal income tax liability a part of of their work related child care expenses. The credit is on a sliding scale basis. Families with income of \$10,000 or less may deduct 30%, and for every \$2,000 of income above this the credit is reduced by one percent. All families with incomes of \$30,000 or more can deduct 20%.

B. Title XX - This federal program reimburses participating centers and homes for the child care of low-income families. Unfortunately, funding has been cut drastically, and State funds in this program have been reduced overall from 20% to 58%.

C. Title IVA Disregard - Working Families Receiving Aid to Families With Dependent Children (ADC) who cannot get day care under Title XX can have their ADC payment increased to cover child care expenses. Unfortunately, this is not available in Virginia due to the conflict with the Title XX program. These expenses are disregarded from their income when the amount of their monthly grant is being determined. Congress increases the "cap" on the amount one could receive to \$160 per month.

D. Child Care Feeding Program (CCFP) reimburses child care programs for serving nutritious snacks and meals to children of low and moderate income families. Congress changed the guidance to allow for-profit programs serving 25% low-income children as well as non-profit programs to participate. Unfortunately, they also slashed the budget by one-third at the same time and a program such as this is hard to implement in rural areas.

E. Community Development Block Grant (CDBG) and revenue sharing provide non-categorical grants to localities and considerable flexibility in their use. Some day care centers have been funded through these.

F. Private efforts such as United Way and the tax deduction for businesses to contribute to day care centers might also provide other avenues of help. There are also other sources such as foundations, charitable donation fund raising, public schools, colleges and universities, and civic groups.

- The Senate of the United States recently opened its own child care center for children of Senate employees whether they be clerical workers, cafeteria workers or anyone else. The center was started with a one-time appropriation of \$20,000 for start-up costs. Worksite child

care centers are favored by many not only because of the convenience but the parents can drop in during the day and is readily accessible to respond in emergencies. Other federal agencies, including Labor, Education, and Health and Human Services, have worksite centers.

- Employers who participate in sponsoring day care programs in some form have been shown that they can expect the following benefits: lower job turnover (57%), lower absenteeism (72%), improved employee attitudes toward employees (65%), improved employee work attitudes, (55%), attracted new employees (88%), improvement in community relations (36%), and increased publicity (60%). It has also been interpreted that under the IRS Code, these employers have learned that 100% of the cost of care for employees' written off state and federal taxes as a deduction "ordinary and necessary business expense."
- Child care is further fragmented by no longer requiring licensure for church operated day care centers, any facility operated by a governmental agency and certain geographic areas of the state, informal babysitting arrangements which allow for the care of 5 or fewer unrelated children in one's home without any regulation as well as others.
- Stricter regulation of child care centers may not be the answer and serve only to encourage more "closet child care." What is needed is a set of equal regulations which must apply to all child care facilities.
- Several owners of private, for-profit centers brought the following items to the attention of the subcommittee:
 - A. Private providers have been around since World War II when many women had to to work;
 - B. Bureaucratic regulations in this area are felt to be self-serving and protections public jobs when in effect they often kill off creative and innovative programs;
 - C. Private care can offer parents a philosophical choice in the programming of the care centers;
 - D. Government should expend its monies in expanding tax credits for parents and employers who provide child care benefits. Indigent children should be helped with a voucher system so that the money goes to the client, not the caregiver, and the client may choose where the children will go;
 - E. The competitive bid process should be utilized to a greater extent in determining who will provide services in a given area.
 - F. Government must equalize the rules and regulate all government and academic centers.
 - G. Regulations by themselves do not promote quality. The centers we have seen so much about in the news in California and New York recently have been regulated by Social Services and two were actually run by Social Services, but the verdict is not in one many of these cases.
 - H. Private providers feel that they can provide quality child care at a lower cost than subsidized facilities even though they must pay taxes, rents and mortgages, and utilities. Many subsidized facilities have very little overhead, nominal or no rent for buildings, and pay either no or relatively low utilities. This is not seen to be competitive and is unfair to for-profit centers.
 - I. The State of Maryland recently opted out of the day care business and went strictly to private day care centers.
 - J. If public buildings are to be used, bids to get the best use for the best dollar.
 - K. Contracts for child care should be consummated without bias as to whether it is a community, non-profit, or for-profit group.

RECOMMENDATIONS FOR IMPROVEMENT
AS SEEN BY THE PUBLIC

- The Commonwealth needs to develop a more in-depth assessment of the demand for child care services.
- Ways of effecting interagency cooperation to provide extended day programs for school-age children is needed.
- The quality of child care is equally important as availability.
- There is a great need to expand and coordinate systems for child day care information and referral services.
- A study of financial structures of other states to provide affordable child care services for consumers and providers is needed.
- There is a great need to examine the current dependent care tax credit.
- Additional ways of promoting employer-assisted child day care needs to be explored.
- Consideration should be given to providing start-up facility and operating loan guarantees to child care providers.
- There is great concern about the proposed revision of minimum standards for day care centers being developed. They are seen to be too weak and vague and would only lessen the degree of control over the quality of day care.
- Child care subsidies for low and moderate income working parents should be given thoughtful consideration.
- That an Office for Child Care be established in the Commonwealth to enable the State to better coordinate the fragmented child care system now available. There is seen to be no State policy for child care, no method of coordinating and overseeing the system we now have, and positive approaches to these problems are badly needed. This Office, as envisioned, would help extend the participation of employees in providing and financing child care services, develop a procedure for standardizing the credentialing of caregivers, aiding the search for funding from a large variety of sources, studying and implementing techniques for Information and Referral Systems, and making sure that there are sufficient services for all children at rates affordable for low income working parents.
- A primary recommendation from many sources would be to make licensure mandatory for all child care centers operating in the State. It is felt to be in the best interests of all children to have established criteria, minimum requirements for operation, and standard applicable to all enforced by one single agency.
- State licensing standards should include specific training requirements for all levels of child care personnel, and this position has been endorsed by the National Association for the Education of Young Children. These should be defined training requirements and not generalized ability requirements. Standards should apply not only to centers but also to family and group homes. Unfortunately, there has been no formal study in Virginia to determine exactly what is available, the cost, etc.
- A public awareness campaign to inform parents of exactly how to shop for child care should be developed. Parents need to know what to look for and appropriate questions to ask of those who will provide care for their children.
- Standards should be clearly written, enforceable, vigorously enforced, and above all, practical.
- The State should undertake a program to make loans available for start-up costs and renovation of child care centers either through guaranteed state loans or existing Industrial Development Authorities.

- The Commonwealth should extend to all schools the authority to operate extended day care in the schools in order to qualify for new federal start-up funds for such. These programs should be left to local option and then be conducted on a competitive basis open to both profit and non-profit groups.
- License all facilities who care for children whether they be profit, non-profit or church related.
- Every center should be subjected to at least one unannounced inspection a year. Each licensed center is inspected at least once a year, and the regulations provide that the inspection may be either announced or unannounced. Department policy has been to announce inspection.
- Many urge that no further action be taken on 1984 Senate Bill No. 356 as carried over to the 1985 Session of the General Assembly due to the fact that it would further fragment an already loose system of regulating child care centers by separating the for-profit centers into a separate entity.
- That the Commonwealth comply with the new federal regulation which provides for criminal background checks on individuals who work with children in day-care settings. This would allow the State to continue to be eligible for our full Title XX funding if such legislation were in place by the end of FY 1985 (October 31, 1985). This would also be a beginning, but not an end in itself, to providing a more secure environment for our youngsters.
- That the Commonwealth adopt regulations with regard to day care centers, providing of course certain safeguards for the health and safety of the child, to allow parents complete accessibility to their child during the period in which the child is in the care of such center.
- Many individuals urged for the placement of all child day care services under regulation by the Commonwealth, including private, non-profit, and church operated child care centers and schools. The licensing and approval of all child care facilities should be centralized.
- Greater consideration ought to be given to using a voucher system for low-income children thereby subsidizing the child rather than the center and leaving the choice of center open to the parents.
- If public buildings are to be used for day care, bids should be obtained competitively to get the best use for the best dollars and contracts should be awarded without bias for certain types of facilities.

FINAL RECOMMENDATIONS
BY THE JOINT SUBCOMMITTEE

After the detailed public hearings and having attempted to begin to analyze the problem in the Commonwealth concerning the condition of our child care operations, the subcommittee feels that it is in the best interest of all those involved to recommend the following actions:

- To recommend to the legislature the creation of an Office for Child Care, located within the Division for Children to: further evaluate the quality, availability, affordability and accessibility of child care services in the Commonwealth and develop techniques and plans to implement; to aid in locating funding sources for child care; to promote the participation of employers in providing and financing child care services; alternatives to licensing structure; and to help educate and train not only child care workers but also parents. To implement these recommendations, among others, this office shall prepare a State Plan for Child Care Services to be presented to the Secretary of Human Resources prior to December 1, 1985 and shall cooperate fully with the Department of Social Services in the preparation of such. Implementation of this plan shall be pursuant to the approval of such.
- The joint subcommittee recommended and offers for adoption legislation which would provide for criminal background checks for all child care workers in order to detect criminal charges which could adversely affect children offenses involving abuse or neglect of a minor or criminal sexual assault or contributing to the delinquency of a minor.

- To recommend that the State adopt an "open door" right to visitation of their child at any time in the day care center with certain safeguards for the health and safety of the child. The proposed state regulations at this time contain such, but at this time have not been adopted, and they apply only to licensed facilities. The Joint Subcommittee would like to see this provision applicable to all facilities that care for children.
- To provide legislation which would allow localities, at their option, to provide extended care services in their buildings, with contracts for such being open to the competitive bidding process regardless of whether the provider is for-profit or non-profit.
- To recommend that licensing policy by the Department of Social Services provide for at least one, if not more, unannounced inspection visits. This provision exists already, but, due to lack of personnel, it has been the policy to announce the visit. The subcommittee feels that if only one inspection per year can be done, then it should be unannounced. It is not felt that an announced inspection is, for the most part, a good evaluation of day.
- To recommend that no further action be taken on Senate Bill 356 of the 1984 Session of the General Assembly due to the feeling that this would only serve to further fragment any form of organized day care. It is anticipated that should an Office for Child Care be created, all caregivers whether they be profit or non-profit will be given equal opportunity to contribute.
- With regard to the question which has arisen frequently with the propriety or advisability of providing exemptions from licensing to child care facilities owned and operated by religious organizations, the joint subcommittee agreed that the situation at present was too fluid to warrant any directives. It is felt that department regulations which are pending and a court case yet to be decided dealing with the legal questions of the issue warrant this position.

Respectfully submitted,
Phoebe M. Orebaugh, Chairman
John H. Chichester
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APPENDIX A (1)

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend and reenact §§ 19.2-389, 63.1-198 and 63.1-199 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.1-198.1 and 63.1-198.2, all relating to the dissemination of criminal history records.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, 63.1-198 and 63.1-199 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.1-198 and 63.1-198.2 as follows:

§ 19.2-389. Dissemination of criminal history record information.—A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to: (i) authorized officers or employees of criminal justice agencies, as defined by § 9-169, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants; (ii) such other individuals and agencies which require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending; (iii) individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, insure the security and confidentiality of the data; (iv) individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency which shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and insure the confidentiality and security of the data; (v) agencies of state or federal government which are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information; and (vi) individuals and agencies where authorized by court order or court rule; (vii) agencies of any political subdivision of the State for the conduct of investigations of applicants for public employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration; (vii)(a) public or private agencies when and as required by federal or state law or interstate compact to investigate applicants for foster or adoptive parenthood subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; (viii) to the extent permitted by federal law or regulation, public service companies as defined in § 56-1 of the Code of Virginia, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration; and (ix) the appropriate authority for purposes of granting citizenship and for purposes of international travel, including but not limited to, issuing visas and passports; (x) a person requesting a copy of his own criminal history record information as defined in § 9-169, subdivision 4, at his costs; ~~and~~ (xi) *the Commissioner of the Department of Social Services for the conduct of investigations with respect to applicants for a license to operate a child-welfare agency pursuant to § 63.1-198 and employees of and volunteers at such facilities pursuant to § 63.1-198.1, subject to the limitations set out in paragraph E; and (xii) as otherwise provided by law.*

Upon an ex parte motion of a defendant in a felony case, and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the

Central Criminal Records Exchange to furnish the defendant as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; provided, however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to assure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.1-135.1.

E. Criminal history information provided to the Commissioner of the Department of Social Services pursuant to paragraph A (xi) shall be limited to convictions on file with the Exchange regarding offenses involving (i) abuse or neglect of a minor, (ii) criminal sexual assault, (iii) contributing to the delinquency of a minor, (iv) crimes against the person as set out in Chapter 4 of Title 18.2 of this Code. The information provided to the Commissioner shall not be disseminated except as provided in §§ 63.1-198 and 63.1-198.1.

§ 63.1-198. Investigation on receipt of application.—Upon receipt of the application the Commissioner shall cause an investigation to be made of the activities, services and facilities of the applicant, of the applicant's financial responsibility, and of his character and reputation or, if the applicant be an association, partnership or corporation, the character and reputation of its officers and agents. *The character and reputation investigation shall include a criminal history records check as authorized by § 19.2-389 of the applicant or the officers and agents of the applicant.* The applicant shall afford the representatives of the Commissioner required to make the investigation reasonable opportunity to inspect all of the applicant's facilities, books and records, and to interview his or its agents and employees and any child or other person within his or its custody or control.

§ 63.1-198.1. Employment of persons or use of volunteers convicted of certain offenses; criminal records check required; suspension or revocation of license.—A child care facility licensed in accordance with the provisions of this chapter may refuse to employ, or utilize as volunteer personnel, persons who have been convicted of any offense involving abuse or neglect of a minor or criminal sexual assault or contributing to the delinquency of a minor or a crime against the person as set out in Chapter 4 of Title 18.2 of this Code. Any person desiring to work at a licensed facility shall first be required to obtain a certificate from the Commissioner indicating that (i) a criminal records check was conducted at the request of the Commissioner in accordance with § 19.2-389 and (ii) whether or not information with respect to convictions for offenses involving abuse or neglect of a minor, or criminal sexual assault or contributing to

the delinquency of a minor or crimes against the person as set out in Chapter 4 of Title 18.2 of this Code was obtained. Failure to obtain a certificate from the Commissioner for each employee or volunteer shall be grounds for suspension or revocation of the license issued pursuant to this chapter.

§ 63.1-198.2. Records check by unlicensed facility.—Any facility providing child care services which is exempt from the licensing requirements of this chapter may require a prospective employee or volunteer to first obtain and present a criminal records check as provided in § 19.2-389 A (x) and may refuse employment or work to any person who has been convicted of an offense involving abuse or neglect of a minor, or criminal sexual assault or contributing to the delinquency of a minor or crimes against the person as set out in Chapter 4 of Title 18.2 of this Code. Further dissemination of the information provided to the facility is prohibited.

*§ 63.1-199. Issuance or refusal of license; notification.—Upon completion of such investigation, the Commissioner shall issue an appropriate license to the applicant if ~~such~~ (i) the applicant has made adequate provision for such activities, services and facilities as are reasonably conducive to the welfare of the children over whom he may have custody or control, ~~if~~ (ii) his financial responsibility is such as to give reasonable assurance of the continued maintenance of such activities, services and facilities, and ~~if~~ (iii) he, or the officers and agents of the applicant if it ~~be~~ is an association, partnership or corporation, is or are of good character and reputation ; . Otherwise, the license shall be refused. *The Commissioner may refuse a license to any applicant who has been convicted of an offense involving the abuse or neglect of a minor or criminal sexual assault or contributing to the delinquency of a minor or a crime against the person as set out in Chapter 4 of Title 18.2 of this Code.* Immediately upon his taking final action, the Commissioner shall notify the applicant of such action.*

APPENDIX A (2)

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend the Code of Virginia by adding a section numbered 63.1-210.1, relating to visitation by parents or guardians in certain facilities caring for children.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 63.1-210.1 as follows:

§ 63.1-210.1. Visitation by parents or guardians in facilities caring for children.—A custodial parent or guardian shall be admitted at any time into any home or facility providing care, protection and guidance to his child while separated from his parent or guardian during a part of the day only, while the child is in the home or facility. This section shall apply to any such home or facility, whether or not it is licensed by the Department.

APPENDIX A (3)

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend the Code of Virginia by adding in Chapter 7 of Title 22.1 a section numbered 22.1-87.1, relating to programs outside school hours.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 7 of Title 22.1 a section numbered 22.1-87.1 as follows:

§ 22.1-87.1. Programs outside school hours.—Upon agreement of the governing body, school boards may establish programs outside of the regular school hours for the students who attend its elementary and middle schools. In order to be eligible to attend such programs, a student shall be enrolled in a school in the school division conducting the programs. Such programs may be conducted before or after school hours or both. No state or local funds appropriated for educational purposes shall be used to support such programs. However, the local governing body may appropriate funds specifically for the purpose of supporting such programs or may require such programs to be self-supporting.

The school board may set a schedule of fees for attendance. Such fees may include the costs of conducting the program less any locally appropriated funds. Such fees may be established as flat rates or based on ability to pay. The school board may hire the necessary personnel to operate these programs or may make arrangements for these services with another agency of local government or contract for such services with a private, nonprofit or commercial agency.

APPENDIX A (4)

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend the Code of Virginia by adding in Chapter 33 of Title 2.1 an article numbered 2, consisting of sections numbered 2.1-553.2 through 2.1-553.5, relating to child care services.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 33 of Title 2.1 an article numbered 2, consisting of sections numbered 2.1-55.2 through 2.1-553.5, as follows:

Article 2.

Child Care Services.

§ 2.1-553.2. Declaration of policy.—The General Assembly recognizes that the welfare of many of its children depends on the provision of child care to children in a safe, healthy, efficient and coordinated manner. Accordingly, it shall be the policy of the Commonwealth to promote the availability, quality, accessibility and affordability of child care pursuant to a state plan which ensures the coordination of child care services.

§ 2.1-553.3. General powers and duties of the Director with respect to child care.—The Director of the Division for Children, hereinafter referred to as the Director, shall have the following general powers to carry out the purposes of this article:

- 1. To employ such personnel as may be required.*
- 2. To make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the Division for Children, hereinafter referred to as the Division, and the execution of its powers under this chapter, with regard to child care.*
- 3. To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Division shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable.*
- 4. To do all acts necessary or convenient to carry out the purposes of this chapter.*

§ 2.1-553.4. Additional powers and duties of the Director.—Additional powers and duties of the Director related to child care shall include but not be limited to:

- 1. Evaluation of the quality of child care services currently available in the Commonwealth and development of training and educational activities to enhance the quality of these services.*
- 2. Evaluation and development of a plan for expanding availability of child care to children of all ages.*
- 3. Development of methods for making child care affordable for low income working parents.*
- 4. Development of techniques for information and referral for potential consumers of child care.*
- 5. Location of funding sources for child care services.*
- 6. Promotion of the participation of employers in providing and financing child care services.*
- 7. Education of the public and especially parents on the detection, reporting and treatment*

of child abuse and promotion of appropriate use of existing child abuse investigation procedures as set out in Chapter 12.1 of Title 63.1 of the Code.

§ 2.1-553.5. State plan.—The Director, in cooperation with the Department of Social Services, shall develop a state plan for child care which will set out a coordinated, efficient means of providing child care in order to promote availability, quality, accessibility, and affordability of these services. The plan shall encompass the information developed as a result of activities performed pursuant to this article and any additional relevant information.

The first plan shall be presented to the Secretary of Human Resources no later than December 1, 1985, and annually thereafter.

Requesting the House Committee on Health, Welfare, and Institutions and the Senate Committee on Rehabilitation and Social Services to study child care centers in the Commonwealth.

Agreed to by the House of Delegates, March 9, 1984

Agreed to by the Senate, March 8, 1984

WHEREAS, according to the 1980 Census figures, 49.8% of mothers in the Commonwealth of Virginia with children under six and 62.9% of mothers with children over six were working outside the home; and

WHEREAS, almost 16% of the families with children in the Commonwealth are headed by single parents, and, of these, 13% are headed by females; and

WHEREAS, although the number of live births has increased steadily, the fertility rates are decreasing and women are having fewer children in shorter periods of time and thereby increasing the number of years they spend in the work force; and

WHEREAS, in the Commonwealth, at least 45% of the families using day care arrange for care in homes other than their own, and 90% of these place their children with providers operating informally and independently of any regulatory system and these children cared for in an in-family setting or under self-care cannot be accurately measured; and

WHEREAS, quality day care can foster positive social, intellectual, emotional and physical growth in children and therefore can be beneficial to children, families, their communities and the Commonwealth; and

WHEREAS, day care centers relieve economic distress, facilitate career aspirations, and diminish the negative effects of parental employment and thereby contribute to family harmony and stability; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the House Committee on Health, Welfare, and Institutions and the Senate Committee on Rehabilitation and Social Services are requested to study the various aspects of child care centers. This study should include, but not be limited to: (i) assessment of the demand for child day care services; (ii) the expansion and coordination of systems for child day care information and referral services; (iii) examination of ways of effecting interagency cooperation to provide extended day programs for school-age children; (iv) a study of the financial structures utilized by adjoining states to provide affordable child day care services for consumers as well as providers; (v) an examination of the current dependent care tax credit; (vi) the exploration of additional ways to promote employer-assisted child day care; (vii) consideration of providing "start-up, facility and operating" loan guarantees; and (viii) the consideration of child care subsidies for low and moderate income working parents. The joint subcommittee shall also consider, but not be limited to, the relationship of proprietary child care centers to public child care centers.

The joint subcommittee shall consist of: three members of the House Health, Welfare and Institutions Committee appointed by the Speaker of the House and two members of the Senate Committee on Rehabilitation and Social Services, appointed by the Senate Committee on Privileges and Elections.

The joint subcommittee shall submit any recommendations it deems advisable to the 1985 Session of the General Assembly.

The direct and indirect costs of this study are estimated to the \$7,415.