

**REPORT OF THE**

**Commission on  
Early Childhood and  
Child Day Care Programs**

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



**SENATE DOCUMENT NO. 38**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1993**

## **MEMBERS**

Senator Stanley C. Walker, *Chairman*  
Delegate Joan H. Munford, *Vice Chairman*  
Delegate Joyce K. Crouch  
Delegate Alan A. Diamonstein  
Senator Janet D. Howell  
Senator W. Henry Maxwell\*  
Senator Frank W. Nolen  
Delegate Robert D. Orrock, Sr.  
Delegate Linda T. Puller  
Delegate Mitchell Van Yahres  
Senator Jane H. Woods  
Mrs. Catherine Ann Belter  
The Honorable Dorothy McDiarmid  
Alice M. Pieper, Ph.D.

## **EX OFFICIO**

Dr. Gordon K. Davies  
Larry D. Jackson  
Dr. Arnold R. Oliver  
Mrs. Mary Spangenthal  
Dr. Joseph A. Spagnolo, Jr.  
Ms. Mary Ellen Verdu

## **STAFF**

Jessica F. Bolecek, *Senior Attorney*  
Brenda H. Edwards, *Senior Research Associate*  
Norma E. Szakal, *Senior Attorney*  
Karen B. Crewe, *Executive Secretary*  
José A. Rosado, *Executive Secretary*  
*Division of Legislative Services*

John McE. Garrett, *Senate Deputy Clerk*  
*Office of the Clerk, Senate of Virginia*

Former member of the House of Delegates. Senator Maxwell was elected to the Senate in December 1992.

## TABLE OF CONTENTS

<i>EXECUTIVE SUMMARY</i>	<i>i</i>
<i>INTRODUCTION</i>	<i>1</i>
<i>BACKGROUND</i>	<i>4</i>
<i>FINDINGS AND RECOMMENDATIONS</i>	<i>8</i>
 <i>APPENDICES</i>	
<i>A. Senate Joint Resolution 114</i>	
<i>B. Carry-Over Legislation</i>	
<i>C. Summary of Public Hearing Comments</i>	
<i>D. Implementation Plan and Cost Projections</i>	
<i>E. Proposed Legislation</i>	
<i>F. Minority Reports</i>	

## **REPORT OF THE COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS**

### ***EXECUTIVE SUMMARY***

The Commission on Early Childhood and Child Day Care Programs was created by the 1991 General Assembly pursuant to House Bill 1778 (Marshall). The Commission continues in statute the work of the Joint Subcommittee Studying Early Childhood and Day Care Programs established by the 1987 Session of the General Assembly (Senate Joint Resolution 167 and House Joint Resolution 299). For over four years, the Joint Subcommittee studied the issues surrounding early childhood programs, culminating in its 1990 recommendation to strengthen Virginia's child care regulatory systems, House Bill 1035. The enactment of House Bill 1778, placing the Joint Subcommittee in the Code of Virginia as a legislative study commission, recognized the importance of early childhood programs to families in the Commonwealth and to the Commonwealth's economic future.

Today, in Virginia, nearly 680,000 children under the age of 13 reside in households where their mothers are working outside of the home. The General Assembly and the Commission are keenly aware of the critical role played by early childhood programs in the daily lives of these families. Early childhood programs support working families and can provide safe, secure and stimulating environments that enable young children to grow into educated, reliable, productive members of society.

Yet, while acknowledging the need for safe, supportive environments for young children, the Commission also recognizes the need to balance the state's role in ensuring the safety of these environments, with the rights and responsibilities of parents to choose a variety of different settings and the rights of providers to operate free of unnecessary, restrictive regulation. As the first step in developing a system of uniform, fair regulatory oversight, the 1992 Session of the General Assembly, pursuant to Senate Joint Resolution 114, directed the Commission to "(i) review the issues, (ii) address significant policy implications, (iii) resolve inconsistencies in the law, and (iv) recommend sound, appropriate, and feasible measures to ensure the protection of children, balance between conflicting interests, and the availability of quality, affordable and accessible early childhood and day care programs throughout the Commonwealth."

The Commission on Early Childhood and Child Day Care Programs, in recognizing the enormous task before it, began its work during the last week of the 1992 General Assembly Session. On March 4, 1992, Senator Walker convened a meeting of the full Commission for a preliminary discussion of relevant 1992 carry-over legislation and related issues. To assist the Commission, the Secretary of Health and Human Resources asked the Department of Social Services to establish an interagency liaison committee to identify and examine the issues and make recommendations.

During June and July, the executive and legislative staff gathered information for the Commission. Legislative staff reviewed regulations of other states and clarified issues related to three separate categories of programs: school-based before-and after-school programs; proprietary child day care programs; and, programs operated by local departments of parks and recreation. The Department of Social Services talked with special interest groups around the state in an effort to clarify issues and reach a satisfactory compromise. The liaison committee developed recommendations that would address the questions it identified. This work resulted in a definition for "child day program" rather than "child day care," acknowledging the differing types of programs that serve children.

At its August meeting, the Commission heard recommendations from legislative and executive staff. The Deputy Commissioner for Local Programs, Department of Social Services, on behalf of the liaison agencies and their Boards, presented a definition of "child day program". This definition reflected policy goals for a regulatory law, as well as principles that included administrative considerations and child-focused risk factors. Comments were received on behalf of local parks and recreation programs seeking exemption from regulation; from a multi-site after-school program run by a Northern Virginia school division seeking exemption from regulation or a procedure that would license the school division to regulate its own sites; and from a school division in support of regulation through the Department of Education.

The full Commission convened again in October 1992 when a subcommittee was appointed to examine carry-over legislation and a proposal from Howard Cullum, Secretary of Health and Human Resources. Chaired by Delegate Joan H. Munford, the subcommittee conducted three sessions to receive comments and suggestions from interested parties and from the patrons of carry-over legislation. Representatives from the Virginia Association for Early Childhood Education, the Virginia Child Care Resource and Referral Network, the Virginia Community College System, the Virginia Recreation and Parks Association, the Virginia Association of Independent Schools, the Virginia Alliance of Family Day Care Associations, the Virginia Montessori Association, parents, providers, and other interested parties addressed the subcommittee.

Secretary Cullum, in further consultation with special interest groups, clarified the definitions in a final proposal for child day programs in Virginia. This proposal was reviewed and, with several modifications, was accepted by the subcommittee at its November 25 meeting. The subcommittee also expressed interest in an effective date of July 1, 1993, for recommended legislation, rather than July 1, 1994.

The Commission also met on November 25 to review the recommendations of the subcommittee. It accepted the subcommittee's report and requested the Department of Social Services to prepare an implementation plan and cost estimates.

The Commission held public hearings on its preliminary recommendations at four locations around the state. In general, speakers supported the Commission's recommendations with some notable exceptions.

Throughout its deliberations, the Commission has recognized the challenge of finding the appropriate balance in child day care regulation. It intends to develop a policy that will improve child day care; protect the health, welfare, and safety of all children while they are in the care of persons other than their parents; and recognize the unique characteristics of some programs.

The Commission, therefore, makes the following recommendations for implementation beginning July 1, 1993.

- I. *Chapter 10 of Title 63.1 should be amended to include a clear definition of child day programs. Child day programs subject to licensure should include child day centers, child day center systems, family day homes, and family day systems.*
- II. *The Commissioner of Social Services should have the power to issue sanctions for serious noncompliance with promulgated standards.*
- III. *Section 63.1-196.3 should be amended to require religiously exempt centers to establish policies and procedures to ensure ongoing compliance with the requirements of the exemption application, criminal records checks, health and safety requirements, including child immunization laws, child abuse and neglect laws, and transportation laws, including those specific to child restraint devices.*
- IV. *Section 63.1-196.3 should be amended to authorize on-site inspections of religiously exempt centers to confirm compliance with the requirements or investigate complaints of noncompliance prior to granting or renewing an exemption. Under this proposal, any center found to be in serious and persistent violation of these requirements shall have its exemption revoked.*
- V. *Implementation of the Commission's proposal should begin July 1, 1993, and the General Assembly should appropriate such funds and positions as are necessary to implement the proposal. During the phase-in period, programs to assist providers with improvements necessary to meet regulatory changes should be developed and implemented.*
- VI. *Agencies of the Commonwealth should help parents become better informed consumers of child care, so that they understand the role of regulation and can evaluate and monitor the programs they choose. The agencies should also support providers in their efforts to provide safe, high quality experiences for children. The Council on Child Day Care and Early Childhood Programs and the Department of Social Services should develop and implement a statewide training plan which includes the community college system and four-year colleges and universities.*
- VII. *The General Assembly should appropriate \$100,000 each year to expand an improvement loan fund to assist child care providers in meeting regulatory standards and improving the quality of their programs.*

- VIII: *The Council on Child Day Care and Early Childhood Programs, in cooperation with the Virginia Child Care Resource and Referral Network, should conduct a demonstration project to test the development of regional child care network centers as a system to link child care services to a statewide network. The Commission recommends \$151,565 and two FTEs in the first year and \$211,260 and two FTEs in the second year to conduct the regional demonstration project.*
- IX: *The General Assembly should appropriate \$100,000 each year to establish a Quality Child Care Awareness Campaign. These funds would match the funds set aside by the Council on Child Day Care and Early Childhood Programs for this campaign.*

### **1992 Carry-Over Legislation**

The Commission recommends adoption of its proposed legislation in lieu of the following bills carried over from the 1992 Session of the General Assembly:

- HB 707 relating to child day-care facilities and licenses
- HB 762 relating to definitions of child-care facilities and registration of small family day-care homes
- HB 776 relating to the definitions of child day-care facilities and licenses
- HB 1026 relating to the certification of certain private preschool and nursery school programs
- SB 344 relating to definitions of child day-care facilities and licenses
- SB 466 relating to the definitions of child day-care facilities and licenses

The Commission recommends that Senate Bill 380, relating to application fees for child welfare agencies, be re-referred to the House Committee on Health, Welfare and Institutions.

## **REPORT OF THE COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS**

### ***INTRODUCTION***

As Virginia moves into the 1990's, social, demographic and economic changes are dramatically affecting its families. The definition of "family" has changed; the traditional picture of "home-maker" mother, working father and 2.5 children has been replaced by the current reality of the working mother, often single, struggling to maintain a basic lifestyle. Today, one in four white children and one in two Afro-American children live in single parent households. Half of all children can be expected to live in a single parent household at some point before they reach age eighteen. The economy demands that both parents work to support a middle class existence; single parents often must work to put food on the table.

Data provided by the U.S. Bureau of the Census, November 1992, reveals the following for Virginia:

- Virginia has 1,469,235 working women, accounting for 678,730 children under the age of 13. Nearly 12 percent of these children (79,057) are in households that fall below the federal poverty line.
- Of Virginia's working mothers with children under the age of 13, 160,146 are single parents. Just over 123,500 children live in households headed by a single, working mother. Forty percent of these children (49,727) fall below the federal poverty line.

Obviously, Mother staying at home raising the children while Dad brings home the pay check is a scene that does not apply to all families. The infrastructure that supported the family in previous generations is gone. Mobile Virginians are usually miles and even states away from relatives. They do not know their neighbors. Consequently, children are left alone to care for themselves and their younger siblings, or they are in one of the numerous varieties of day programs while their parents work. Almost 600,000 children are in some form of supervised care for all or part of the day. Some children are, of course, in the care of relatives, many of whom receive compensation for that care. Others are in family day care homes approved by local departments of social services or local governments. Still others are in religiously sponsored child care programs that have been granted exemption from regulation. Virginia has only 108,500 spaces in state-licensed day programs, including licensed family day care. It would appear that a significant number of Virginia's children are in situations that receive no oversight for even basic health and safety requirements.

For many families in Virginia, affordable day programs for children are key to economic self-sufficiency. For children, quality early childhood programs are the key to future school success and, ultimately, success as productive, self-assured



members of society. Therefore, the cost, availability, accessibility and quality of these programs have become major sources of concern for parents, program operators, and governments, both nationally and in Virginia. While most persons agree that society should promote and protect the health and safety of children in out-of-home situations, there is less agreement about which types of programs are best for children of different ages, who should provide the programs, and whether some or all providers of child day programs should be required to meet certain minimum qualifications and conditions.

The Commission on Early Childhood and Child Day Care Programs was created by the 1991 General Assembly pursuant to House Bill 1778 (Marshall). The Commission continues in statute the work of the Joint Subcommittee Studying Early Childhood and Day Care Programs established by the 1987 Session of the General Assembly (Senate Joint Resolution 167 and House Joint Resolution 299). For over four years the Joint Subcommittee studied the issues surrounding early childhood programs, culminating in its 1990 recommendation to strengthen Virginia's child care regulatory systems, House Bill 1035. The enactment of House Bill 1778, placing the Joint Subcommittee into the Code of Virginia as a legislative study commission, recognized the importance of early childhood programs to families in the Commonwealth and to the Commonwealth's economic future.

The effective date of House Bill 1035 (1990) was July 1, 1992. During the 1992 General Assembly, numerous bills were introduced on behalf of private schools, family day care providers, and government-sponsored parks and recreation programs. None passed the General Assembly and eight were carried over to 1993, pending recommendations from the Commission on Early Childhood and Child Day Care Programs. The implementation date for House Bill 1035 was extended to July 1, 1994, in order to accommodate this process.

Today in Virginia, nearly 680,000 children under the age of 13 reside in households where their mothers are working outside of the home. The General Assembly and the Commission are keenly aware of the critical role played by early childhood programs in the daily lives of these families. Early childhood programs support working families and can provide safe, secure and stimulating environments that enable young children to grow into educated, reliable, productive members of society.

Yet, while acknowledging the need for safe, supportive environments for young children, the Commission also recognizes the need to balance the state's role in ensuring the safety of these environments, with the rights and responsibilities of parents to choose a variety of different settings and the rights of providers to operate free of unnecessary, restrictive regulation. As the first step in developing a system of uniform, fair regulatory oversight, the 1992 General Assembly, pursuant to Senate Joint Resolution 114, directed the Commission to "(i) review the issues, (ii) address significant policy implications, (iii) resolve inconsistencies in the law, and (iv) recommend sound, appropriate, and feasible measures to ensure the protection of children, balance between conflicting interests, and the availability of quality, affordable and accessible early childhood and day care programs throughout the Commonwealth."

Pursuant to § 9-291.1, the Commission is required to "coordinate the revision and implementation of child day care licensing laws and recommend any statutory, regulatory, or policy changes . . . to ensure the viability of quality, affordable, and accessible early childhood and child day care programs." The 1992 Session of the General Assembly, through Senate Joint Resolution 114 (Appendix A), specifically charged the Commission to:

- (1) Review the provisions of all legislation pertaining to child day care issues.
- (2) Analyze the issues and policy implications raised by House Bill 1035 (1990) and by legislation related to early childhood and child day care programs introduced during the 1992 Session.
- (3) Assess the impact of House Bill 1035, all related legislation, and regulations on state agencies, local governments, and entities required to be licensed, particularly those required to be licensed for the first time.
- (4) Determine whether entities required to be registered should be required to be licensed.
- (5) Assess the feasibility and appropriateness of maintaining or granting the Board of Education authority and control of public preschool and before-and after-school day care programs operated on public school property.
- (6) Assess the potential for joint regulations for preschool and before-and after-school programs by the Child Day-Care Council and the Board of Education.
- (7) Identify and determine factors and program features which distinguish early childhood, recreational, and child day care programs to provide clarification for purposes of licensure.
- (8) Review all related proposed regulations.
- (9) Consider all related matters as may be referred for review.
- (10) Make recommendations to provide clear state policies respecting early childhood and child day care programs.

Senate Joint Resolution 114 required that the Commission's findings and recommendations be submitted to the Governor and the 1993 Session of the General Assembly.

This report represents the culmination of the Commission's work to date. Given the complexity of the tasks before it, the Commission will continue to address its responsibilities as directed by Senate Joint Resolution 114 during 1993.

## **BACKGROUND**

The Commission on Early Childhood and Child Day Care Programs, began its work during the last week of the 1992 General Assembly Session. On March 4, 1992, the full Commission met to conduct a preliminary discussion of relevant 1992 carry-over legislation and related issues. The Commissioner of the Department of Social Services, advised the Commission on the difficulties of investigating abuse in non-regulated care situations and pledged the Department's full support to the Commission.

The Secretary of Health and Human Resources asked the Department of Social Services to establish an interagency liaison committee to identify and examine the issues and to make recommendations. The committee, comprised of staff and Board members from the Departments of Social Services, Education, and Conservation and Recreation, the Child Day-Care Council and the Council on Child Day Care and Early Childhood Programs, began its deliberations on April 3, 1992. Six primary questions were identified:

1. Does the state have the right or is it necessary for the state to regulate local government services, including child day programs operated by public schools and departments of parks and recreation?
2. How should "child day care" be defined to distinguish it from educational, treatment and recreational services?
3. Should self-regulation and/or accreditation be substituted for state regulation and, if so, how and under what circumstances?
4. What is the appropriate regulatory framework for family day care homes, including level and type of regulation?
5. What should be done to systematize early childhood programs to ensure that all children have access to quality programs that are affordable to their parents? What supports are needed by providers of children's programs, and how are parents alerted to the factors in selecting quality child day programs?
6. What incentives, benefits and assistance should be available to help resolve cost and quality concerns?

The full Commission met on May 27, 1992. Legislative staff presented an overview of the Commission's charge, reviewed carry-over legislation related to child care, and presented a tentative work plan for the Commission's approval. The Commission heard from the Deputy Commissioner for Local Programs, Department of Social Services, who presented the work of the liaison committee, and from the Chair of the Child Day-Care Council, presenting the Council's position on the proposed child care center regulations.

During June and July, the executive and legislative staff gathered information for the Commission. Legislative staff reviewed regulations of other states and clarified issues related to three separate categories of programs: school-based before-and after-school programs; proprietary child day care programs; and, programs operated by local departments of parks and recreation.

The Department of Social Services talked with special interest groups around the state in an effort to clarify issues and reach a satisfactory compromise. The liaison committee developed recommendations that would address the questions it identified. This work resulted in a definition for "child day program" rather than "child day care," acknowledging the differing types of programs that serve children.

At its August 26, 1992, meeting, the Commission heard recommendations from legislative and executive staff. The Deputy Commissioner for Local Programs of the Department of Social Services, on behalf of the liaison agencies and their boards, presented a definition of "child day program." This definition reflected identified policy goals for a regulatory law, as well as principles that included administrative considerations and child-focused risk factors. Comments were received on behalf of local parks and recreation programs seeking exemption from regulation; from a multi-site after-school program run by a Northern Virginia school division seeking exemption from regulation or a procedure that would license the school division to regulate its own sites; and from a school division in support of regulation through the Department of Education.

The full Commission convened again on October 12, 1992, and the Chairman invited The Honorable Howard M. Cullum, Secretary of Health and Human Resources, to make recommendations to the Commission. The Secretary's major recommendations were:

1. Codify the following definition of child day program into Chapter 10 of Title 63.1, Code of Virginia:

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 13 for less than a 24-hour period.

2. Implement the major provisions of House Bill 1035 as modified by these recommendations.
3. Continue the current religious exemption, but strengthen the oversight of religiously exempted facilities by developing basic health and safety standards, and requiring on-site verification of compliance with health and safety standards and background checks.
4. Allow no additional exemptions beyond religious exemption.
5. Request that the Department of Education assume responsibility for regulation of child day programs operated by local school divisions using the same regulations.
6. Provide for voluntary registration of child day programs not required to be licensed.
7. Provide the Department of Social Services with additional sanctions to ensure compliance and protect the health and safety of children.

8. Provide for quality improvements, e.g., expand resource and referral services, increase provider training and funding for quality improvements.
9. Provide for a local option for public or private entities to serve as the Commonwealth's licensing or regulatory agent.
10. Phase in implementation.
  - July 1, 1994: Implement requirements for center regulation; implement licensing of family day homes with over eight children; expand voluntary registration.
  - July 1, 1996: Full implementation of regulatory standards.

Other presenters included representatives of parks and recreation, the Richmond Metro Child Care Coalition, the Family Day Care Alliance, the United Way, the Richmond Association for Early Childhood Education, the Corporate and Community Partnership for Children, and the Virginia Association for Early Childhood Education. With the exception of parks and recreation, comments generally supported uniform regulation regardless of program sponsorship, and expansion of resource and referral services and training opportunities. Concern was raised, however, over the proposed delayed implementation, particularly in regard to family day care homes. Several questions from Commission members demonstrated a need to further clarify definitions.

Senator Walker closed the October 12 meeting by creating a subcommittee of the Commission for the purpose of considering Secretary Cullum's proposal and the carry-over legislation.

Chaired by Delegate Joan H. Munford, the Commission's subcommittee conducted sessions on October 28, November 9, and November 25 to receive comments and suggestions from interested parties and from the patrons of carry-over legislation. (Copies of the carry-over bills are included in Appendix B. Delegate Dillard's proposed amendment in the nature of a substitute for House Bill 1026 is included.) Representatives from the Virginia Association for Early Childhood Education, the Virginia Child Care Resource and Referral Network, the Virginia Community College System, the Virginia Recreation and Parks Association, the Virginia Association of Independent Schools, the Virginia Alliance of Family Day Care Associations, the Virginia Montessori Association, parents, providers, and other interested parties addressed the subcommittee.

The Secretary's proposal was reviewed and recommended with modification to the full Commission. The subcommittee also expressed interest in implementation of the revised proposal beginning July 1, 1993, rather than July 1, 1994.

The Commission met on November 25 to review the report of the subcommittee. It accepted the subcommittee's recommendations and requested the Department of Social Services to prepare an implementation plan and cost estimates.

The Commission held public hearings on its preliminary recommendations on December 8, 9, 10, and 11, 1992, at four locations around the state. (For a summary of comments, see Appendix C.) In general, speakers supported the Commission's recommendations. Exceptions to that support included the following:

- Representatives of Montessori, cooperative preschools, and other private schools sought exemption for their child day programs based on the premise that they are, or could be, accredited by an outside accrediting body, as proposed in House Bill 1026 (1992).
- Family day care associations, several parents and individual providers voiced concern over the size of the group permitted to be in care. These speakers regarded more than 10 children in a family day care home as too large a group for home-based child care, and as detrimental to the well-being of the children.
- A number of speakers encouraged the Commission to go further with regulation, calling for the elimination of any exemptions from licensure.
- Representatives of government-sponsored parks and recreation programs expressed concern about the cost of regulation on their programs.
- No support was expressed for the proposal to allow Fairfax, Alexandria, Falls Church, and Arlington to assume sole responsibility for regulation of child day facilities if certified by the State Department of Social Services.

## **FINDINGS AND RECOMMENDATIONS**

The Commission's intent is to recommend a policy that will improve the quality of child day care and that will protect the health, welfare and safety of all children while they are in the care of persons other than their parents. The Commission also wishes to recognize the unique characteristics of some programs and to preserve accessibility of child day programs. To achieve these purposes, the Commission makes the following recommendations to the 1993 Session of the General Assembly.

**RECOMMENDATION I:**      *Chapter 10 of Title 63.1 should be amended to include a clear definition of child day programs. Child day programs subject to licensure should include child day centers, child day center systems, family day homes, and family day systems.*

Limitations within the current statutory definitions have caused the inconsistent application of regulation among child day care providers. Because these definitions do not encompass all types of providers of child day programs, some recognized providers are excluded from regulation.

A *child day program* should be defined as 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 13 for less than a twenty-four hour period.

- ***Child day center*** - a child day program offered to two or more children under the age of 13 in a facility that is not the residence of the care provider or the residence of any of the children, or a child day program offered to 13 or more children at any location.
- ***Child day center system*** - any person who is voluntarily licensed as such and who operates, manages, or accredits as members of its system, 50 or more child day center sites in the Commonwealth.
- ***Family day home*** - a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children 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 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. Effective July 1, 1996, family day homes serving six through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children, unless the family day home is licensed or voluntarily registered.

- ***Family day system*** - (substantially the same as the current definition for family day care system) - any person who approves family day homes as members of its system; who refers children to available family day homes in its system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

Child day programs not subject to licensure under Chapter 10, Title 63.1, include:

1. A child day program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision.
2. A child day center that has obtained religious exemption under § 63.1-196.3.
3. An instructional class or program of classes focused on a specific cultural, athletic, or academic skill or interest, such as but not limited to dance, karate, music, or basketball, wherein no child under nine years of age attends for more than a total of six hours within a five-consecutive day-period.
4. A multi-activity recreational program for children at least five years of age wherein no child attends for more than a total of six hours within a five-consecutive-day period.
5. A program of instructional experience in a single focus, such as but not limited to computer science, archaeology, sports clinics, or music, provided that children below the age of five do not attend at all and that no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different interest area at a site offering a variety of activities and exceed 25 days in a three-month period.
6. A program that is in service for no more than fourteen consecutive calendar days per year or that operates intermittently for no more than a total of 20 program days in the course of a calendar year.
7. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act (IDEA), and programs of school-sponsored extracurricular activities that are focused on single interests such as but not limited to music, sports, drama, civic service, or foreign language.



8. Programs of early intervention for children eligible under Part H of IDEA wherein no child attends for more than six hours per week.
9. Education and care programs provided by public schools and not described by Item (7) which will be regulated by the Virginia Department of Education using regulations that incorporate, but may exceed, requirements for child day centers.
10. Practice or competition in organized competitive sports leagues.
11. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and bar mitzvah or bat mitzvah classes, and child-minding services provided to allow parents who are on-site to attend religious worship or instructional services.
12. Child-minding services that (i) are offered on-site in commercial or recreational establishments when the parent, who is not an on-duty employee, is receiving services or participating in activities offered by the establishment, and can be contacted and resume responsibility for the child's supervision within 30 minutes and (ii) are not available for more than three hours per day for any individual child.

**RECOMMENDATION II:**     *The Commissioner of Social Services should have the power to issue sanctions for serious noncompliance with promulgated standards.*

Licensed programs that consistently fail to meet standards pose a threat to the well-being of the children they serve. The state must have the authority to ensure that parents are advised of the problems, and must be in a position to demand correction.

1. A facility found substantially out of compliance shall be issued a probationary status announcement in addition to its license already in effect. Such notice shall remain prominently posted until the violations for which it is issued are corrected.
2. A facility incapable of making corrections to achieve compliance with the regulations may have its licensed capacity reduced or new admissions restricted.
3. Training for the licensee or the licensee's employees may be mandated when the Commissioner concludes that the lack of such training has led directly to violations of regulations.
4. The State Board of Social Services, State Board of Education or the Council on Child Day Care and Early Childhood Programs may withhold funding from any facility found to be in serious and persistent violation of these regulations.

**RECOMMENDATION III:** *Section 63.1-196.3 should be amended to require religiously exempt centers to establish policies and procedures to ensure ongoing compliance with the requirements of the exemption application, criminal records checks, health and safety requirements, including child immunization laws, child abuse and neglect laws, and transportation laws, including those specific to child restraint devices.*

Under the current exemption process for religiously exempt child day care, the Department of Social Services cannot validate that children are protected in these environments.

Parents should be assured that at least a minimum level of health and safety practices is maintained. These requirements should be listed in § 63.1-196.3 and include:

1. Hand washing for staff and children before eating and after toileting and diapering;
2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety;
3. Daily intake procedures to accomplish simple health screenings and exclusion of children by a trained worker;
4. Presence of a person trained and currently certified in first aid on the center's premises and on field trips; and
5. All areas of the premises that are accessible to children should be free of obvious injury hazards.

**RECOMMENDATION IV:** *Section 63.1-196.3 should be amended to authorize on-site inspections of religiously exempt centers to confirm compliance with the requirements or investigate complaints of noncompliance prior to granting or renewing an exemption. Under this proposal, any center found to be in serious and persistent violation of these requirements shall have its exemption revoked.*

Without on-site inspection of the facility, neither compliance with, nor serious and persistent violation of the requirements, can be validated. Without this validation, parents cannot be assured that their children are protected.

**RECOMMENDATION V:** *Implementation of the Commission's proposal should begin July 1, 1993, and the General Assembly should appropriate such funds and positions as are necessary to implement the proposal. During the phase-in period, programs to assist providers with improvements necessary to meet regulatory changes should be developed and implemented.*

With at least 80 percent of Virginia's children in unregulated environments, the state is able to provide some assurance that only one-fifth of children in out-of-home care are minimally protected. Although a need exists to balance the costs incurred with the need for protection, the Commission believes that both aspects can be achieved by early implementation of the major requirements, coupled with a phased-in approach to staffing regulatory functions. Therefore, the Commission proposes implementation beginning July 1, 1993.

The Department of Social Services has indicated that the cost of implementation will be \$1.4 million in FY 93-94 and \$1.9 million in FY 94-95. The Department's projected cost and implementation plan are included in Appendix D.

*(Note: The Commission has asked the Department of Social Service to fine tune its request and provide updated figures for the cost of implementation).*

**RECOMMENDATION VI:** *Agencies of the Commonwealth should help parents become better informed consumers of child care, so that they understand the role of regulation and can evaluate and monitor the programs they choose. The agencies should also support providers in their efforts to provide safe, high quality experiences for children. The Council on Child Day Care and Early Childhood Programs and the Department of Social Services should develop and implement a statewide training plan which includes the community college system and four-year colleges and universities.*

The protection of children in child care settings is of the utmost importance to the Commission. The Commission recognizes the need for a supportive regulatory environment which promotes the affordability and availability of child care within the state.

Protecting children in these settings relies not only on the monitoring and enforcement of minimum regulations, but also on providers' employing trained staff, and educated consumers' making informed child care choices. In recent years, the state has supported a variety of efforts to help parents and providers. Some of these efforts include:

- Creating a complaint hot line;
- Mandating criminal records checks for officials and staff of religiously exempt child care settings;
- Increasing consumer awareness materials;
- Funding tuition assistance and scholarships for child care providers;
- Establishing a program for voluntary registration of family day care homes;
- Funding the expansion of resource and referral services; and
- Initiating a statewide training plan for child care providers.

While these efforts have helped improve child care environments, protecting the general well-being of Virginia's children in out-of-home care settings necessitates a wide array of solutions to current child care problems. The Commission believes that at least minimum regulation of child care settings combined with a package of supports for providers and parents will increase the level of protection in child care settings currently afforded Virginia's children.

**RECOMMENDATION VII:** *The General Assembly should appropriate \$100,000 each year to expand an improvement loan fund to assist child care providers in meeting regulatory standards and improving the quality of their programs.*

Providers currently exempt from regulation cite the costs associated with regulation as being significant barriers in obtaining licensure. Assisting providers with some initial costs for meeting regulatory standards can offer incentives for providers to seek licensure as well as ensure that these programs are not forced out of the market. The Council on Child Day Care and Early Childhood Programs has set aside federal dollars from the Child Care Development Block Grant to establish an improvement loan fund for child care providers to assist them in meeting regulatory standards. The addition of the general fund dollars would increase the base of the loan fund and provide money for providers whose needs cannot be met with block grant funds due to federal requirements on the use of these funds.

**RECOMMENDATION VIII:** *The Council on Child Day Care and Early Childhood Programs, in cooperation with the Virginia Child Care Resource and Referral Network, should conduct a demonstration project to test the development of regional child care network centers as a system to link child care services to a statewide network. The Commission recommends \$151,565 and two FTEs in the first year and \$211,260 and two FTEs in the second year to conduct the regional demonstration project.*

Limited information regarding child care choices in communities is available to parents. Although resource and referral programs assist parents in locating appropriate care as well as educating parents on how to choose quality child care, these programs do not operate statewide. Child care information on services useful to parents is fragmented and lacks a focal point at the state level for coordination.

In the long term, the Commission envisions networking child care services across the state with the ultimate goal of helping parents become educated child care consumers and ensuring child care settings exist from which they may choose. In the short term, the Commission recommends that the Council conduct a demonstration project to establish regional centers which include the following activities:

- Develop a state data bank through the Council's Child Care Network Unit.
- Provide free resource and referral services to the public.

- Serve as a pilot site to test the use of a child care voucher program in a non-traditional social services setting, providing subsidies to low-income working parents.
- Serve as a regional focal point for marketing the state's Quality Child Care Awareness campaign throughout the localities in the service delivery area.
- Establish satellite offices as appropriate to ensure comprehensive resource and referral services throughout clearly defined service delivery areas.

The Council currently provides funding through the Child Care Development Block Grant for the expansion of resource and referral services into unserved areas of the state. The general fund support, when combined with the expansion money from the block grant, would accelerate expansion by enabling the Council to offer technical assistance to communities on models for linking a variety of child care services with resource and referral components.

**RECOMMENDATION IX:** *The General Assembly should appropriate \$100,000 each year to establish a Quality Child Care Awareness Campaign. These funds would match the funds set aside by the Council on Child Day Care and Early Childhood Programs for this campaign.*

Consumers are generally unaware of what constitutes quality child care programs. The state provides only limited information or education to parents on selecting and evaluating quality care. Believing that parents bear a primary responsibility for ensuring that their children attend safe, quality child care programs, the Commission supports efforts to assist parents where possible in making an informed child care choice.

The parent education program should describe the role of regulation in child care, the elements of good quality child programs, and how to select and monitor care. Parents can serve as "regulators" themselves when educated about how to identify quality care. Parents are more frequently on site at the facilities than any licensing inspector could possibly hope to be. Parents trained to recognize and report substandard child care can become partners with the state in ensuring that child day care programs comply with the requirements.

### **1992 CARRY-OVER LEGISLATION**

Several bills introduced in the 1992 Session and related to child day care were carried over and referred to the Commission on Early Childhood and Child Day Care Programs for recommendation. The Commission's recommendations and proposed legislation address the issues contained in the bills, with one exception, Senate Bill 380. The Commission, therefore, recommends its proposed legislation in lieu of the following 1992 bills:

- HB 707 relating to child day-care facilities and licenses

- HB 762 relating to definitions of child-care facilities and registration of small family day-care homes
- HB 776 relating to the definitions of child day-care facilities and licenses
- HB 1026 relating to the certification of certain private preschool and nursery school programs
- SB 344 relating to definitions of child day-care facilities and licenses
- SB 466 relating to the definitions of child day-care facilities and licenses

The Commission recommends that Senate Bill 380 relating to application fees for child welfare services be re-referred to the House Committee on Health, Welfare and Institutions.

## SENATE JOINT RESOLUTION NO. 114

*Directing the Commission on Early Childhood and Child Day Care Programs to study the provisions of legislation on early childhood and child day care programs.*

Agreed to by the Senate, February 11, 1992

Agreed to by the House of Delegates, March 2, 1992

WHEREAS, in 1990, the General Assembly enacted House Bill 1035, which substantially changed the regulation of child day care in Virginia; and

WHEREAS, House Bill 1035 (1990) incorporated the recommendations of (i) the Joint Legislative Audit and Review Commission, (ii) the former Secretary of Health and Human Resources, Eva S. Teig, (iii) the Department of Social Services, (iv) day care providers and other interested parties, and (v) the Joint Subcommittee on Early Childhood and Day Care Programs and its task forces; and

WHEREAS, the legislation as passed was substantially changed due to extensive amendments, and considerable concern and discussion have ensued regarding the provisions of H.B. 1035 (1990) and the Child Day-Care Council's proposed regulations to implement the law; and

WHEREAS, the provisions of House Bill 1035 (1990) become effective on July 1, 1992; however, numerous bills have been introduced in the 1992 Session which affect various aspects or the implementation of this law and the regulations; and

WHEREAS, much of this legislation amends the same sections of the Code of Virginia; however, the provisions of these bills are all substantially different and, if enacted, would result in inconsistency in the law; and

WHEREAS, several sections of the Code have both a July 1, 1992, as well as a 1994 effective date, with many of the inherent problems regarding the new law still unresolved; and

WHEREAS, these situations indicate the need for critical policy decisions by the General Assembly concerning these programs and the need to resolve the dilemma created by Code sections which will be effective in due course and delayed until July 1, 1994, simultaneously; and

WHEREAS, there is great concern about potential difficulties that may arise with the full implementation of H.B. 1035; of the need to ensure the integrity of the Code; and of the need to prevent the legal quagmire which would result from the passage of legislation which will be both in effect and delayed to a future date; and

WHEREAS, these matters, if not addressed, could potentially create havoc in the codification and enforcement of state law; and

WHEREAS, pursuant to § 9-291.1 of the Code of Virginia, the Commission on Early Childhood and Child Day Care Programs is required to "coordinate the revision and implementation of child day care licensing laws, and recommend any statutory, regulatory, or policy changes . . . to ensure the viability of quality, affordable, and accessible early childhood and child day care programs"; and

WHEREAS, due to the complexity of the issues and policy implications, a thorough review of all legislation pertaining to the provisions of H.B. 1035 (1990), the proposed regulations of the Child Day-Care Council and the Department of Social Services, and other related measures introduced in the 1992 Session of the General Assembly is warranted; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Commission on Early Childhood and Child Day Care Programs is directed to (i) review the provisions of all legislation pertaining to child day care issues; (ii) analyze the issues and policy implications raised by H.B. 1035 (1990) and by legislation related to early childhood and child day care programs introduced during the 1992 Session; (iii) assess the impact of H.B. 1035, all related legislation, and regulations on state agencies, local governments, and entities required to be licensed, particularly those required to be licensed for the first time; (iv) determine whether entities required to be registered should be required to be licensed; (v) assess the feasibility and appropriateness of maintaining or granting, as the case may be, Board of Education authority and control of public preschool and before- and after-school day care programs operated on public school property, including such programs operated by accredited private schools recognized by the Board of Education through the Virginia Council on Private Education; (vi) assess the efficacy and appropriateness of joint regulations for preschool and before- and after-school day care programs by the Child Day-Care Council and the Board of Education; (vii) identify and determine, if possible, factors and program features which distinguish early childhood, recreational, and child day care programs to provide clarification for purposes of licensure; (viii) review all related

proposed regulations, including the relationship between and the impact of the revised licensing laws on the Child Care Block Grant and voluntary registration of family day care homes; (ix) consider all related matters as may be referred for review; and (x) make recommendations to provide clear state policies respecting early childhood and child day care programs, including legislation to provide consistency, appropriate statutory language, and clarification in state law concerning such programs.

All agencies of the Commonwealth shall provide assistance upon request in the manner deemed appropriate by the Commission.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1993 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.



## 1992 SESSION

LD2452198

## HOUSE BILL NO. 707

Offered January 21, 1992

A BILL to amend and reenact §§ 63.1-195 and 63.1-196 of the Code of Virginia, relating to definitions of child day-care facilities and licenses.

Patron—Davies

Referred to the Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-195 and 63.1-196 of the Code of Virginia are amended and reenacted as follows:

§ 63.1-195. (Effective July 1, 1992) 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-care center" means any facility operated for the purpose of providing care, protection and guidance to two or more children separated from their parents or guardian during a part of the day only, except (i) a :

1. A private family home offering care to five or fewer children ; (ii) a :

2. A group family day-care home ; (iii) a ;

3. A public school or a private school unless the Commissioner determines that such school is operating a child-care center outside the scope of regular classes, (iv) a recreation ;

4. A program operated by an entity other than a public or private school primarily for recreational development and , instruction at , and enrichment activities in a public or private school or facility unless the Commissioner determines that such program is child care outside the scope of regular recreational programs, for school-age children; and (v) a

5. A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

The Commissioner may determine whether a school or recreational program is operating outside the scope of regular classes or regular recreational programs and is subject to licensure as required under § 63.1-196.

An hourly child-care service providing care to children on an occasional basis shall be subject to applicable child-care center standards. ~~On~~ When applying these such standards, due consideration shall be given to the number of children in care, the maximum hours any child is in care and the type of service provided.

"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) [Repealed.]

(2) 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) 2. An establishment required to be licensed as a summer camp by § 35.1-1 et seq.; registered pursuant to § 63.1-196.02, or an establishment exempted from registration pursuant to § 63.1-196.03; and

(4) 3. A bona fide hospital legally maintained as such.

"Child day-care camp" means a facility operated seasonally which offers seasonal or year-round offering programs or services to two or more children separated from their

1 parents or guardian during part of the day only ; ~~which~~ ; provides care, protection, and  
2 guidance ; and emphasizes outdoor activities. A camp is subject to licensure ~~shall be~~  
3 ~~required to be licensed~~ if its sessions cover a period in excess of fourteen ~~fifteen~~  
4 consecutive days or more or if the same children are eligible to attend two or more  
5 sessions covering a period ~~not in excess of no more than~~ fourteen consecutive days with  
6 ~~fewer less~~ than six days between sessions. However, the provisions of this section shall not  
7 apply to any establishment required to be registered pursuant to § 63.1-196.02, or any  
8 establishment exempted from registration pursuant to § 63.1-196.03. The Child Day-Care  
9 Council may adopt regulations permitting occasional overnight activities in such child  
10 day-care camps ; ~~except a~~ . However, no recreation playground facility operating primarily  
11 for recreational development and , instruction , and enrichment activities during summer  
12 vacation and whose attendance regulations allow for unmonitored arrivals and departures  
13 shall be permitted to operate occasional overnight activities .

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

18 "Child-welfare agency" means a child-placing agency, child-caring institution,  
19 independent foster home, child-care center, family day-care system, group family day-care  
20 home, nursery school or preschool, before or after school programs, or child day-care  
21 camp.

22 "Family day-care system" means any person who approves family day-care homes as  
23 members of its system; who refers children to available day-care homes or group family  
24 day-care homes in that system; and who, through contractual arrangement, may provide  
25 central administrative functions including, but not limited to, training of operators of  
26 member day-care homes; technical assistance and consultation to operators of member  
27 day-care homes; inspection, supervision, monitoring, and evaluation of member day-care  
28 homes; and referral of children to available health and social services.

29 "Foster care" means the provision of services or substitute care and supervision for a  
30 child (i) who has been identified as needing services to prevent or eliminate the need for  
31 foster care placement, (ii) who has been committed or entrusted to a local board of public  
32 welfare or child welfare agency, or (iii) for whom the board or child welfare agency has  
33 accepted supervision, in a temporary living situation until the child can return to his or  
34 her family or be placed in a permanent foster care placement or in an adoptive home.

35 "Foster care placement" means placement of a child in the custody of a child-placing  
36 agency in suitable foster family homes, child-caring institutions, residential facilities or  
37 group homes.

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

41 "Group family day-care home" means any private family home in which no fewer less  
42 than six and no more than twelve children are received for care, protection, and guidance  
43 for monetary remuneration during ~~only~~ a part of the day only . Once a child who does not  
44 reside in the home is received for care in exchange for monetary remuneration, all  
45 children receiving care count in the size of the group.

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

49 "Independent foster home" means a private family home in which any child, other than  
50 a child by birth or adoption of such person, resides as a member of the household and has  
51 been placed therein independently of a child-placing agency except (i) a home in which  
52 are received only children related by birth or adoption of the person who maintains such  
53 home and legitimate children of personal friends of such person and (ii) a home in which  
54 is received a child or children committed under the provisions of subdivision 4 of 5

1 16.1-278.2, subdivision 5 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

2 "Independent living placement" means placement of a child at least sixteen years of  
3 age who is in the custody of a local board or licensed child-placing agency in a living  
4 arrangement in which he does not have daily substitute parental supervision.

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

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

15 "Nursery school" or "preschool" means a child day-care program for children two to  
16 five years of age at which children two through four years of age do not attend in excess  
17 of four hours per day and children five years of age do not attend in excess of six and  
18 one-half hours per day, and such program is operated primarily for the educational  
19 development and instruction of two or more children also receiving care, protection, and  
20 guidance while separated from their parents.

21 "Permanent foster care placement" means the place of residence in which a child  
22 resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and  
23 63.1-206.1 with the expectation and agreement between the placing agency and the place of  
24 permanent foster care that the child shall remain in the placement until he reaches the  
25 age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or  
26 § 63.1-248.9. A permanent foster care placement may be a place of residence of any  
27 natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

28 "Person" means any natural person, or any association, partnership or corporation.

29 "Registered small family day-care home" means any small family day-care home which  
30 has met the standards for voluntary registration for such homes pursuant to regulations  
31 prescribed by the Board of Social Services and which has obtained a certificate of  
32 registration from the Commissioner of Social Services.

33 "Small family day-care home" means any private family home in which no more than  
34 five children, including children related by blood or marriage to the person who maintains  
35 the home, are received for care, protection, and guidance for monetary remuneration  
36 during only a part of the day only.

37 § 63.1-196. (Effective July 1, 1992) Licenses required; posting of licenses; deceptive or  
38 misleading advertising.—A. Every person who serves as or maintains a child-caring  
39 institution, an independent foster home, child-care center, *child-placing agency*, family  
40 day-care system, nursery school or preschool, before or after school day-care program,  
41 child day-care camp, or a group family day-care home shall obtain an appropriate license  
42 from the Commissioner.

43 Group family day-care homes which are members of a licensed family day-care system  
44 are not required to obtain a license from the Commissioner. Every person not an officer,  
45 employee, or agent of the Commonwealth, county, town, or city acting within the scope of  
46 his authority as such, who serves as or maintains a child-placing agency, shall obtain an  
47 appropriate license from the Commissioner.

48 B. The Commissioner shall provide for the issuance of nine categories of licenses,  
49 namely; (i) child-placing:

50 1. *Child-placing agency licenses*, (ii) child-caring;

51 2. *Child-caring institution licenses*; (iii) independent;

52 3. *Independent foster home licenses*; (iv) child-care;

53 4. *Child-care center licenses*; (v) group;

54 5. *Group family day-care home licenses*; (vi) family;

- 1 6. Family day-care system licenses ; ~~(vii)~~ preschool ;
- 2 7. Preschool and nursery school licenses ; ~~(viii)~~ before ;
- 3 8. Before and after school day-care program licenses, pursuant to § 63.1-202.1 ; ; and
- 4 ~~(ix)~~ child
- 5 9. Child day-care camp licenses.

6 Any two or more such licenses may be issued for concurrent operation to the same  
 7 person but each license shall be issued upon a separate form. Each license shall expire at  
 8 the end of two years from the date of its issuance, unless sooner revoked or surrendered.

9 C. The Commissioner's license and other documents issued following any other required  
 10 inspections shall be posted in a conspicuous place on the licensed premises. :

11 D. No child-welfare agency licensed under this chapter shall make, publish, disseminate,  
 12 circulate, or place before the public, or cause, directly or indirectly, to be made, published,  
 13 disseminated, circulated or placed before the public in this Commonwealth, in a newspaper  
 14 or other publication, or in the form of a book, notice, handbill, poster, blueprint, map, bill,  
 15 tag, label, circular, pamphlet, or letter, or in any other way an advertisement of any sort  
 16 regarding services or anything so offered to the public, which advertisement contains any  
 17 promise, assertion, representation or statement of fact which is untrue, deceptive or  
 18 misleading.

19 E. The following entities shall not be required to be licensed under the provisions of  
 20 this section:

21 1. Any child-care center or nursery or preschool program, or before- and after-school  
 22 day-care program, operated by a private school which is accredited by (i) a statewide  
 23 accreditation organization recognized by the Board of Education or (ii) a regional, national,  
 24 or professional accreditation organization recognized by the United States Department of  
 25 Education when such accreditation standards are as stringent as the regulations of the  
 26 Child Day-Care Council for facilities and programs;

27 2. Any local board of public welfare or social services which places children in foster  
 28 homes or adoptive homes pursuant to §§ 63.1-56, 63.1-204 and 63.1-220.2;

29 3. Any child-welfare agency exempted from licensure pursuant to § 63.1-196.3;

30 4. Any establishment required to be registered pursuant to the provisions of §  
 31 63.1-196.02 or exempted from registration pursuant to § 63.1-196.03; or

32 5. Any group family day-care home which is a member of a licensed family day-care  
 33 system.

34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

Official Use By Clerks	
<p style="text-align: center;">Passed By</p> <p>The House of Delegates</p> <p>without amendment <input type="checkbox"/></p> <p>with amendment <input type="checkbox"/></p> <p>substitute <input type="checkbox"/></p> <p>substitute w/amdt <input type="checkbox"/></p>	<p style="text-align: center;">Passed By The Senate</p> <p>without amendment <input type="checkbox"/></p> <p>with amendment <input type="checkbox"/></p> <p>substitute <input type="checkbox"/></p> <p>substitute w/amdt <input type="checkbox"/></p>
Date: _____	Date: _____
Clerk of the House of Delegates	Clerk of the Senate

LD3199480

LEGSCW

1 D 2/4/92 Bolecek T 2/4/92 scw

2 HOUSE BILL NO. 762

3 AMENDMENT IN THE NATURE OF A SUBSTITUTE

4 (Proposed by the House/Senate Committee on/for .....  
5 on .....)

6 (Patron Prior to Substitute--.....)

7 A BILL to amend and reenact §§ 63.1-195 and 63.1-196.04 of the Code of  
8 Virginia, relating to definitions of child-care facilities and  
9 registration of small family day-care homes.

10  
11 Be it enacted by the General Assembly of Virginia:

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

14 § 63.1-195. Definitions.--As used in this chapter:

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

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

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

23 "Child-care center" means any facility operated for the purpose  
24 of providing care, protection and guidance to two or more children  
25 separated from their parents or guardian during a part of the day  
only, except (i) a-: \_\_\_\_\_

LD3199480

LEGSCW

1 1. A private family home offering care to five or fewer children

2 ~~7-(iii)-a-;~~

3 2. A group family day-care home 7-(iii)-a-;

4 3. A public school or a private school unless-the-Commissioner-  
5 determines-that-such-school-is-operating-a-child-care-center-outside-  
6 the-scope-of-regular-classes,7-(iv)-a-recreation-;

7 4. A program operated by an entity other than a public or  
8 private school primarily for recreational development and,

9 instruction at-, and enrichment activities in a public or private  
10 school or facility unless-the-Commissioner-determines-that-such-  
11 program-is-child-care-outside-the-scope-of-regular-recreational-  
12 programs,7-for school-age children; and (v)-a-

13 5. A Sunday school conducted by a religious institution or a  
14 facility operated by a religious organization where children are cared  
15 for during short periods of time while persons responsible for such  
16 children are attending religious services.

17 The Commissioner may determine whether a school or recreational  
18 program is operating outside the scope of regular classes or regular  
19 recreational programs and is subject to licensure as required under §  
20 63.1-196.

21 An hourly child-care service providing care to children on an  
22 occasional basis shall be subject to applicable child-care center  
23 standards. ~~On-When~~ When applying these such standards, due consideration  
24 shall be given to the number of children in care, the maximum hours  
25 any child is in care and the type of service provided.

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

LD3199480

LEGSCW

1 except:

2 ~~(1)-{Repealed}-~~

3 ~~(2)-1.~~ A bona fide educational institution whose pupils, in the  
 4 ordinary course of events, return annually to the homes of their  
 5 parents or guardians for not less than two months of summer vacation;

6 ~~(3)-2.~~ An establishment required to be ~~licensed-as-a-summer-~~  
 7 ~~camp-by-§-35.1-1-et-seq-+-registered~~ pursuant to § 63.1-196.02, or an  
 8 establishment exempted from registration pursuant to § 63.1-196.03;

9 and

10 ~~(4)-3.~~ A bona fide hospital legally maintained as such.

11 "Child day-care camp" means a facility ~~operated-seasonally-which~~  
 12 offers seasonal or year-round offering-programs or services to two or  
 13 more children separated from their parents or guardian during part of  
 14 the day only ~~;-which-;~~ provides care, protection, and guidance ~~;~~ and  
 15 emphasizes outdoor activities. A camp ~~is-subject-to-licensure-shall~~  
 16 be required to be licensed if its sessions cover a period ~~in-excess-of~~  
 17 fourteen-fifteen consecutive days or more or if the same children are  
 18 eligible to attend two or more sessions covering a period ~~not-in-~~  
 19 ~~excess-of~~ no more than fourteen consecutive days with fewer than six  
 20 days between sessions. However, the provisions of this section shall  
 21 not apply to any establishment required to be registered pursuant to §  
 22 63.1-196.02, or any establishment exempted from registration pursuant  
 23 to § 63.1-196.03. The Child Day-Care Council may adopt regulations  
 24 permitting occasional overnight activities in such child day-care  
 25 camps ~~;-except-a-~~. However, no recreation playground facility  
 26 operating primarily for recreational development ~~and-~~ instruction  
 27 and enrichment activities during summer vacation and whose attendance  
 28 regulations allow for unmonitored arrivals and departures shall be

LD3199480

LEGSCW

1 permitted to operate occasional overnight activities .

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

7 "Child-welfare agency" means a child-placing agency, child-caring  
8 institution, independent foster home, child-care center, family  
9 day-care system, group family day-care home, nursery school or  
10 preschool, before or after school programs, or child day-care camp.

11 "Family day-care system" means any person who approves family  
12 day-care homes as members of its system; who refers children to  
13 available day-care homes or group family day-care homes in that  
14 system; and who, through contractual arrangement, may provide central  
15 administrative functions including, but not limited to, training of  
16 operators of member day-care homes; technical assistance and  
17 consultation to operators of member day-care homes; inspection,  
18 supervision, monitoring, and evaluation of member day-care homes; and  
19 referral of children to available health and social services.

20 "Foster care" means the provision of services or substitute care  
21 and supervision for a child (i) who has been identified as needing  
22 services to prevent or eliminate the need for foster care placement,  
23 (ii) who has been committed or entrusted to a local board of public  
24 welfare or child welfare agency, or (iii) for whom the board or child  
25 welfare agency has accepted supervision, in a temporary living  
26 situation until the child can return to his or her family or be placed  
27 in a permanent foster care placement or in an adoptive home.

28 "Foster care placement" means placement of a child in the custody



LD3199480

LEGSCW

1 of a child-placing agency in suitable foster family homes,  
2 child-caring institutions, residential facilities or group homes.

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

6 "Group family day-care home" means any private family home in  
7 which no ~~fewer~~-less than six and no more than twelve children are  
8 received for care, protection, and guidance for monetary remuneration  
9 during ~~only~~-a-part of the day only. Once a child who does not reside  
10 in the home is received for care in exchange for monetary  
11 remuneration, all children receiving care ~~count~~-who do not reside in  
12 the home, except the children or grandchildren of the provider, shall  
13 be counted in the size of the group.

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

17 "Independent foster home" means a private family home in which  
18 any child, other than a child by birth or adoption of such person,  
19 resides as a member of the household and has been placed therein  
20 independently of a child-placing agency except (i) a home in which are  
21 received only children related by birth or adoption of the person who  
22 maintains such home and legitimate children of personal friends of  
23 such person and (ii) a home in which is received a child or children  
24 committed under the provisions of subdivision 4 of § 16.1-278.2,  
25 subdivision 5 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

26 "Independent living placement" means placement of a child at  
27 least sixteen years of age who is in the custody of a local board or  
28 licensed child-placing agency in a living arrangement in which he does

LD3199480

LEGSCW

1 not have daily substitute parental supervision.

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

7 "Interstate placement" includes the arrangement for the care of a  
8 child in an adoptive home, foster care placement or in the home of the  
9 child's parent or with a relative or nonagency guardian, into or out  
10 of the Commonwealth of Virginia, by a child-placing agency or court  
11 when the full legal right of the child's parent or nonagency guardian  
12 to plan for the child has been voluntarily terminated or limited or  
13 severed by the action of any court.

14 "Nursery school" or "preschool" means a child day-care program  
15 for children two to five years of age at which children two through  
16 four years of age do not attend in excess of four hours per day and  
17 children five years of age do not attend in excess of six and one-half  
18 hours per day, and such program is operated primarily for the  
19 educational development and instruction of two or more children also  
20 receiving care, protection, and guidance while separated from their  
21 parents.

22 "Permanent foster care placement" means the place of residence in  
23 which a child resides and in which he has been placed pursuant to the  
24 provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and  
25 agreement between the placing agency and the place of permanent foster  
26 care that the child shall remain in the placement until he reaches th  
27 age of majority unless modified by court order or unless removed  
28 pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care

LD3199480

LEGSCW

1 placement may be a place of residence of any natural person or persons  
2 deemed appropriate to meet a child's needs on a long-term basis.

3 "Person" means any natural person, or any association,  
4 partnership or corporation.

5 "Registered small family day-care home" means any small family  
6 day-care home which has met the standards for voluntary registration  
7 for such homes pursuant to regulations prescribed by the Board of  
8 Social Services and which has obtained a certificate of registration  
9 from the Commissioner of Social Services.

10 "Small family day-care home" means any private family home in  
11 which no more than five children ~~including children related by blood~~  
12 ~~or marriage to the person who maintains the home, who do not reside~~  
13 in the home are received for care, protection, and guidance for  
14 monetary remuneration during ~~only~~ a part of the day only, excluding  
15 the children and grandchildren of the provider.

16 § 63.1-196.04. Voluntary registration of small family day-care  
17 homes; inspections; investigation upon receipt of complaint;  
18 revocation or suspension of registration.--A. Any person who maintains  
19 a small family day-care home as defined in § 63.1-195 may file with  
20 the Commissioner of Social Services, prior to beginning any such  
21 operation and thereafter biennially, a statement which shall include,  
22 but not be limited to, the following:

23 1. The name, address, phone number, and social security number of  
24 the person maintaining the small family day-care home;

25 2. The number and ages of the children to receive care;

26 3. A sworn statement or affirmation in which the applicant shall  
27 attest to the accuracy of the information submitted to the

28 Commissioner for the purpose of voluntary registration as provided in

LD3199480

LEGSCW

1 this section;

2 4. A certificate from the Commissioner that a criminal records  
3 check was conducted on the person operating the home at the request of  
4 the Commissioner as provided in subdivision A 11 of § 19.2-389 and  
5 that no information with respect to convictions for offenses specified  
6 in § 63.1-198.1 was obtained; and

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

10 Upon filing such information on such forms as may be prescribed  
11 by the Commissioner, and after having satisfied the standards for  
12 voluntary registration, the Commissioner of Social Services shall  
13 issue a certificate of registration to the small family day-care home.

14 B. The Commissioner of Social Services shall contract with  
15 qualified local agencies and community organizations to ~~register-~~  
16 certify small family day-care homes as eligible for registration ,  
17 pursuant to the regulations of the Board of Social Services. If no  
18 qualified local agencies or community organizations are available, the  
19 Commissioner shall implement the provisions of this section. Upon  
20 receipt of an application of a qualified local agency or community  
21 organization to ~~register-~~certify small family day-care homes as  
22 eligible for registration , the Commissioner shall cause an  
23 investigation to be made of the applicant's activities, services,  
24 facilities, ~~of-the-applicant's-and~~ financial responsibility, of the  
25 character and reputation of the officers and agents of the applicant,  
26 and of its compliance with standards and requirements which shall be  
27 established for the issuance of such contracts.

28 C. The Board of Social Services shall promulgate regulations by-

LD3199480

LEGSCW

1 January-17-1992, pursuant to the Administrative Process Act (§  
2 9-6.14:1 et seq.) to implement the provisions of this section. Such  
3 regulations shall provide guidelines for the following:

4 1. The identification of small family day-care homes which may  
5 meet the standards for voluntary registration provided in subsection  
6 A;

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

13 3. The establishment of standards and requirements for contracts  
14 to qualified local agencies and community organizations by the  
15 Commissioner of Social Services, upon review of the Board of Social  
16 Services, for the ~~registration~~-certification of small family day-care  
17 homes as eligible for registration ;

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

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

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

LDJ199480

LEGSCW

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

8           D. The contract organization, upon determining that a small  
9 family day-care home has satisfied the standards for voluntary  
10 registration, shall certify the home as eligible for registration on  
11 such forms as may be prescribed by the Commissioner of Social  
12 Services. The Commissioner, upon determining that certification has  
13 been properly issued, may register the small family day-care home.

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

20           F. Upon receipt of a complaint concerning a registered small  
21 family day-care home as defined in § 63.1-195, the Commissioner shall  
22 cause an investigation to be made, including on-site visits as he  
23 deems necessary, of the activities, services, and facilities. The  
24 person who maintains such home shall afford the representatives of the  
25 Commissioner reasonable opportunity to inspect the operator's  
26 facilities and records and to interview any employees and any child or  
27 other person within his custody or control. Whenever a registered  
28 small family day-care home is determined by the Commissioner to be in

LD3199480

LEGSCW

1 noncompliance with the standards for voluntary registration, the  
2 Commissioner shall give reasonable notice to the operator of the  
3 nature of the noncompliance and may thereafter revoke or suspend the  
4 registration.

5 G. Any small family day-care home whose registration is denied,  
6 revoked or suspended may appeal such action in accordance with the  
7 Administrative Process Act (§ 9-6.14:1 et seq.).

8 2. That the provisions of § 63.1-195 shall become effective on July  
9 1, 1994.

10

#

1992 SESSION

LD1565244

HOUSE BILL NO. 776  
Offered January 21, 1992

A BILL to amend and reenact §§ 63.1-195 and 63.1-196 of the Code of Virginia, relating to definitions of child day-care facilities and licenses.

Patrons—Giesen and Wilkins; Senator: Nolen

Referred to the Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-195 and 63.1-196 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-care center" means any facility operated for the purpose of providing care, protection and guidance to two or more children separated from their parents or guardian during a part of the day only, except (i) a :

1. A private family home offering care to five or fewer children ; (ii) a ;

2. A group family day-care home ; (iii) a ;

3. A public school;

4. A public school or a private school unless the Commissioner determines that such school is operating a child-care center outside the scope of regular classes ; (iv) a recreation ;

5. A program operated by an entity other than a public or private school primarily for recreational development and , instruction at , and enrichment activities in a public or private school or facility for school-age children unless the Commissioner determines that such program is child care outside the scope of regular recreational programs, and (v) a . However, classes in individual and team sports shall not be considered as outside the scope of the recreational program;

6. A recreation program operated by the parks and recreation unit of a local government or a privately operated recreational program or facility; and

7. A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

An hourly child-care service providing care to children on an occasional basis shall be subject to applicable child-care center standards. ~~On~~ When applying these such standards, due consideration shall be given to the number of children in care, the maximum hours any child is in care and the type of service provided.

"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) [Repealed.]

(2) 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;

(3) 2. An establishment required to be licensed as a summer camp by § 35.1-1 et seq.; registered pursuant to § 63.1-196.02, or an establishment exempted from registration pursuant to § 63.1-196.03; and

(4) 3. A bona fide hospital locally maintained as such.



1 "Child day-care camp" means a facility ~~operated seasonally~~ *which offers seasonal or*  
2 ~~year-round offering~~ programs or services to two or more children separated from their  
3 parents or guardian during part of the day only ; ~~which~~ ; provides care, protection, and  
4 guidance ; and emphasizes outdoor activities. A camp is ~~subject to licensure~~ *shall be*  
5 ~~required to be licensed~~ if its sessions cover a period ~~in excess of fourteen~~ *fifteen*  
6 consecutive days ~~or more~~ or if the same children are eligible to attend two or more  
7 sessions covering a period ~~not in excess of no more than~~ *fourteen* consecutive days with  
8 ~~fewer less~~ than six days between sessions. *However, the provisions of this section shall not*  
9 *apply to any establishment required to be registered pursuant to § 63.1-196.02, or any*  
10 *establishment exempted from registration pursuant to § 63.1-196.03.* The Child Day-Care  
11 Council may adopt regulations permitting occasional overnight activities in such child  
12 day-care camps ; ~~except a~~ . *However, no recreation playground facility operating primarily*  
13 *for recreational development and , instruction , and enrichment activities during summer*  
14 *vacation and whose attendance regulations allow for unmonitored arrivals and departures*  
15 *shall be permitted to operate occasional overnight activities .*

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

20 "Child-welfare agency" means a child-placing agency, child-caring institution,  
21 independent foster home, child-care center, family day-care system, group family day-care  
22 home, nursery school or preschool, before or after school programs, or child day-care  
23 camp.

24 "Family day-care system" means any person who approves family day-care homes as  
25 members of its system; who refers children to available day-care homes or group family  
26 day-care homes in that system; and who, through contractual arrangement, may provide  
27 central administrative functions including, but not limited to, training of operators of  
28 member day-care homes; technical assistance and consultation to operators of member  
29 day-care homes; inspection, supervision, monitoring, and evaluation of member day-care  
30 homes; and referral of children to available health and social services.

31 "Foster care" means the provision of services or substitute care and supervision for a  
32 child (i) who has been identified as needing services to prevent or eliminate the need for  
33 foster care placement, (ii) who has been committed or entrusted to a local board of public  
34 welfare or child welfare agency, or (iii) for whom the board or child welfare agency has  
35 accepted supervision, in a temporary living situation until the child can return to his or  
36 her family or be placed in a permanent foster care placement or in an adoptive home.

37 "Foster care placement" means placement of a child in the custody of a child-placing  
38 agency in suitable foster family homes, child-caring institutions, residential facilities or  
39 group homes.

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

43 "Group family day-care home" means any private family home in which no ~~fewer less~~  
44 than six and no more than twelve children are received for care, protection, and guidance  
45 for monetary remuneration during ~~only~~ a part of the day ~~only~~ . Once a child who does not  
46 reside in the home is received for care in exchange for monetary remuneration, all  
47 children receiving care count in the size of the group.

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

51 "Independent foster home" means a private family home in which any child, other than  
52 a child by birth or adoption of such person, resides as a member of the household and has  
53 been placed therein independently of a child-placing agency except (i) a home in which  
54 are received only children related by birth or adoption of the person who maintains such

1 home and legitimate children of personal friends of such person and (ii) a home in which  
 2 is received a child or children committed under the provisions of subdivision 4 of §  
 3 16.1-278.2, subdivision 5 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

4 "Independent living placement" means placement of a child at least sixteen years of  
 5 age who is in the custody of a local board or licensed child-placing agency in a living  
 6 arrangement in which he does not have daily substitute parental supervision.

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

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

17 "Nursery school" or "preschool" means a child day-care program for children two to  
 18 five years of age at which children two through four years of age do not attend in excess  
 19 of four hours per day and children five years of age do not attend in excess of six and  
 20 one-half hours per day, and such program is operated primarily for the educational  
 21 development and instruction of two or more children also receiving care, protection, and  
 22 guidance while separated from their parents.

23 "Permanent foster care placement" means the place of residence in which a child  
 24 resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and  
 25 63.1-206.1 with the expectation and agreement between the placing agency and the place of  
 26 permanent foster care that the child shall remain in the placement until he reaches the  
 27 age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or  
 28 § 63.1-248.9. A permanent foster care placement may be a place of residence of any  
 29 natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

30 "Person" means any natural person, or any association, partnership or corporation.

31 "Registered small family day-care home" means any small family day-care home which  
 32 has met the standards for voluntary registration for such homes pursuant to regulations  
 33 prescribed by the Board of Social Services and which has obtained a certificate of  
 34 registration from the Commissioner of Social Services.

35 "Small family day-care home" means any private family home in which no more than  
 36 five children, including children related by blood or marriage to the person who maintains  
 37 the home, are received for care, protection, and guidance for monetary remuneration  
 38 during ~~only~~ a part of the day *only*.

39 § 63.1-196. Licenses required; posting of licenses; deceptive or misleading  
 40 advertising.—A. Every person who serves as or maintains a child-caring institution, an  
 41 independent foster home, child-care center, *child-placing agency*, family day-care system,  
 42 nursery school or preschool, before or after school day-care program, child day-care camp,  
 43 or a group family day-care home shall obtain an appropriate license from the  
 44 Commissioner.

45 Group family day-care homes which are members of a licensed family day-care system  
 46 are not required to obtain a license from the Commissioner. Every person not an officer,  
 47 employee, or agent of the Commonwealth, county, town, or city acting within the scope of  
 48 his authority as such, who serves as or maintains a child-placing agency, shall obtain an  
 49 appropriate license from the Commissioner.

50 B. The Commissioner shall provide for the issuance of nine categories of licenses,  
 51 namely ; (i) *child-placing* ;

52 1. *Child-placing agency* licenses, (ii) *child-caring* ;

53 2. *Child-caring institution* licenses ; (iii) *independent* ;

54 3. *Independent foster home* licenses ; (iv) *child-care* ;

- 1 4. *Child-care center licenses ; ~~(v)~~ group ;*
- 2 5. *Group family day-care home licenses ; ~~(vi)~~ family ;*
- 3 6. *Family day-care system licenses ; ~~(vii)~~ preschool ;*
- 4 7. *Preschool and nursery school licenses ; ~~(viii)~~ before ;*
- 5 8. *Before and after school day-care program licenses, pursuant to § 63.1-202.1 ; ; and*
- 6 ~~(ix)~~ *child*
- 7 9. *Child day-care camp licenses.*

8 Any two or more such licenses may be issued for concurrent operation to the same  
 9 person but each license shall be issued upon a separate form. Each license shall expire at  
 10 the end of two years from the date of its issuance, unless sooner revoked or surrendered.

11 C. The Commissioner's license and other documents issued following any other required  
 12 inspections shall be posted in a conspicuous place on the licensed premises.

13 D. No child-welfare agency licensed under this chapter shall make, publish, disseminate,  
 14 circulate, or place before the public, or cause, directly or indirectly, to be made, published,  
 15 disseminated, circulated or placed before the public in this Commonwealth, in a newspaper  
 16 or other publication, or in the form of a book, notice, handbill, poster, blueprint, map, bill,  
 17 tag, label, circular, pamphlet, or letter, or in any other way an advertisement of any sort  
 18 regarding services or anything so offered to the public, which advertisement contains any  
 19 promise, assertion, representation or statement of fact which is untrue, deceptive or  
 20 misleading.

21 E. *The following entities shall not be required to be licensed under the provisions of*  
 22 *this section:*

23 1. *Any local board of public welfare or social services which places children in foster*  
 24 *homes, adoptive homes or independent living arrangements pursuant to §§ 63.1-56,*  
 25 *63.1-204 and 63.1-220.2;*

26 2. *Any child-welfare agency exempted from licensure pursuant to § 63.1-196.3;*

27 3. *Any establishment required to be registered pursuant to the provisions of §*  
 28 *63.1-196.02 or exempted from registration pursuant to § 63.1-196.03;*

29 4. *Any group family day-care home which is a member of a licensed family day-care*  
 30 *system; or*

31 5. *Any recreation program operated by the parks and recreation unit of a local*  
 32 *government or any privately operated recreational program or facility.*

Official Use By Clerks	
Passed By The House of Delegates without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>	Passed By The Senate without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
Clerk of the House of Delegates	Clerk of the Senate

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

LD 5859212  
D 12/14/92 Edwards, B.

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
FOR HOUSE BILL 1026

Senate Bill No. . . . . House Bill No. . . . .

A Bill to amend the Code of Virginia by adding sections numbered 63.1-196.3:1 and 63.1-196.3:2, relating to the certification of certain private preschool and nursery school programs.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 63.1-196.3:1 and 63.1-196.3:2, as follows:

§ 63.1-196.3:1. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief. --A. On and after July 1, 1994, a certified preschool or nursery school program operated by a private school which is accredited by a statewide accreditation organization recognized by the Board of Education shall be exempt from licensure as required by § 63.1-196, as it shall become effective on July 1, 1994. The private school shall file with the Commissioner of Social Services, prior to the beginning of the school year or calendar year, as the case may be, and thereafter, annually, a statement which includes the following:

1. Intent to operate a certified preschool or nursery school program;
2. Documentary evidence that the school has been accredited as provided in subsection A.
3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool or nursery school program the fact of the program's exemption from licensure;
4. Documentary evidence that the physical facilities in which the preschool or nursery school program will be conducted by the private school has been inspected within the prior calendar year by the local health department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and that such inspection has resulted in a finding that the facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, the Statewide Fire Prevention Code or the Uniform Statewide Building Code;
5. Documentation that the private school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool or nursery school program, and in a written statement made available to the general public, that the school facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, the Statewide Fire Prevention Code or the Uniform Statewide Building Code, enrollment capacity, health requirements for the staff, and public liability insurance;
6. Qualifications of the personnel employed by the school; and
7. Documentary evidence that the private school requires all prospective employees to obtain a criminal records check as provided in subdivision A 11 of § 19.2-389 as a condition of employment. The school shall refuse employment to any person who has been convicted of any offense specified in § 63.1-198.1.

All accredited private schools seeking certification of preschool or nursery school programs shall file such information on such forms as may be prescribed by the Commissioner of Social Services. The Commissioner shall certify all preschool and nursery school programs of accredited private schools which comply with the provisions of subsection A.

B. The preschool or nursery school program of a private school which has not been accredited as provided in subsection A, or a private school which has not provided documentation to the Commissioner that it has initiated the accreditation process by July 1, 1995, shall be subject to licensure pursuant to the provisions of this chapter.

1. A private school which provides documentation to the Commissioner that it has initiated the accreditation process by July 1, 1995 shall be eligible for provisional certification by the Commissioner of Social Services. Such programs shall not be subject to licensure during the accreditation process period.

2. A private school established after July 1, 1995, which intends to operate a preschool or nursery school program, shall be eligible for provisional certification. However, the school shall be subject to licensure pursuant to the provisions of this chapter unless it provides documentation to the Commissioner no later than ninety days after commencing business that it has initiated the accreditation process. Such programs shall not be subject to licensure during the accreditation process period.

C. If a private school fails to complete the accreditation process or is denied accreditation, the Commissioner shall revoke the provisional certification and the program shall thereafter be subject to licensure pursuant to the provisions of this chapter.

D. If an accredited private school which operates a certified preschool or nursery school program fails to file the statement and documentary evidence required in subsection A, the Commissioner shall give reasonable notice to such school of the nature of its noncompliance and may thereafter take such action as he determines appropriate, including the issuance of provisional certification as provided in subsection E, or notice that the program shall comply with the licensure requirements of this chapter.

E. The Commissioner shall issue a provisional certificate to permit a private school to operate its preschool or nursery school program during the accreditation process period. The issuance of a provisional certificate and the renewal thereof shall be for a period not to exceed one year. The revocation or denial of the certification of a preschool or nursery school program shall be subject to appeal pursuant to the provisions of the Administrative Process Act, (§ 9-6.14:1 et seq.). Judicial review of a final agency decision shall be in accordance with the provisions of the Administrative Process Act.

F. Any person who has reason to believe that a private school falling within the provisions of this section is in noncompliance with any provision of subsection A may report the same to the local department of welfare or social services, the local health department, or the local fire marshal, each of which may inspect the school for noncompliance, give reasonable notice to the school of the nature of its noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool or nursery school program.

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

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

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

§ 63.1-196.3:2. Exceptions. The provisions of subdivision 7 of § 63.1-196.3:1 shall not be required of a parent of a child attending the certified preschool or nursery school program of an accredited private school when the parent is working as a volunteer without remuneration and under the direct supervision of an employee of the school who has received a clearance pursuant to § 63.1-198.2, as it shall become effective on July 1, 1994.

## 1992 SESSION

LD0872721

## SENATE BILL NO. 344

Offered January 21, 1992

*A BILL to amend and reenact §§ 63.1-195 and 63.1-196 of the Code of Virginia, relating to definitions of child day-care facilities and licenses.*

Patrons—Nolen, Colgan and Woods

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 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-care center" means any facility operated for the purpose of providing care, protection and guidance to two or more children separated from their parents or guardian during a part of the day only, except (i) a :

1. A private family home offering care to five or fewer children ; (ii) a ;

2. A group family day-care home ; (iii) a ;

3. A public school;

4. A public school or a private school unless the Commissioner determines that such school is operating a child-care center outside the scope of regular classes ; (iv) a recreation ;

5. A program operated by an entity other than a public or private school primarily for recreational development and , instruction at , and enrichment activities in a public or private school or facility for school-age children unless the Commissioner determines that such program is child care outside the scope of regular recreational programs, and (v) a . However, classes in individual and team sports shall not be considered as outside the scope of the recreational program;

6. A recreation program operated by the parks and recreation unit of a local government; and

7. A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

An hourly child-care service providing care to children on an occasional basis shall be subject to applicable child-care center standards. ~~On~~ When applying these such standards, due consideration shall be given to the number of children in care, the maximum hours any child is in care and the type of service provided.

"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) [Repealed.]

(2) 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;

(3) 2. An establishment required to be licensed as a summer camp by § 35.1-1 et seq.; registered pursuant to § 63.1-196.02, or an establishment exempted from registration pursuant to § 63.1-196.03; and

(4) 3. A bona fide hospital legally maintained as such.

1 "Child day-care camp" means a facility operated seasonally which offers seasonal or  
 2 year-round offering programs or services to two or more children separated from their  
 3 parents or guardian during part of the day only ; which ; provides care, protection, and  
 4 guidance ; and emphasizes outdoor activities. A camp is subject to licensure shall be  
 5 required to be licensed if its sessions cover a period in excess of fourteen fifteen  
 6 consecutive days or more or if the same children are eligible to attend two or more  
 7 sessions covering a period not in excess of no more than fourteen consecutive days with  
 8 fewer less than six days between sessions. However, the provisions of this section shall not  
 9 apply to any establishment required to be registered pursuant to § 63.1-196.02, or any  
 10 establishment exempted from registration pursuant to § 63.1-196.03. The Child Day-Care  
 11 Council may adopt regulations permitting occasional overnight activities in such child  
 12 day-care camps ; except a . However, no recreation playground facility operating primarily  
 13 for recreational development and , instruction , and enrichment activities during summer  
 14 vacation and whose attendance regulations allow for unmonitored arrivals and departures  
 15 shall be permitted to operate occasional overnight activities .

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

20 "Child-welfare agency" means a child-placing agency, child-caring institution,  
 21 independent foster home, child-care center, family day-care system, group family day-care  
 22 home, nursery school or preschool, before or after school programs, or child day-care  
 23 camp.

24 "Family day-care system" means any person who approves family day-care homes as  
 25 members of its system; who refers children to available day-care homes or group family  
 26 day-care homes in that system; and who, through contractual arrangement, may provide  
 27 central administrative functions including, but not limited to, training of operators of  
 28 member day-care homes; technical assistance and consultation to operators of member  
 29 day-care homes; inspection, supervision, monitoring, and evaluation of member day-care  
 30 homes; and referral of children to available health and social services.

31 "Foster care" means the provision of services or substitute care and supervision for a  
 32 child (i) who has been identified as needing services to prevent or eliminate the need for  
 33 foster care placement, (ii) who has been committed or entrusted to a local board of public  
 34 welfare or child welfare agency, or (iii) for whom the board or child welfare agency has  
 35 accepted supervision, in a temporary living situation until the child can return to his or  
 36 her family or be placed in a permanent foster care placement or in an adoptive home.

37 "Foster care placement" means placement of a child in the custody of a child-placing  
 38 agency in suitable foster family homes, child-caring institutions, residential facilities or  
 39 group homes.

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

43 "Group family day-care home" means any private family home in which no fewer less  
 44 than six and no more than twelve children are received for care, protection, and guidance  
 45 for monetary remuneration during only a part of the day only . Once a child who does not  
 46 reside in the home is received for care in exchange for monetary remuneration, all  
 47 children receiving care count in the size of the group.

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

51 "Independent foster home" means a private family home in which any child, other than  
 52 a child by birth or adoption of such person, resides as a member of the household and has  
 53 been placed therein independently of a child-placing agency except (i) a home in which  
 54 are received only children related by birth or adoption of the person who maintains such



1 home and legitimate children of personal friends of such person and (ii) a home in which  
 2 is received a child or children committed under the provisions of subdivision 4 of §  
 3 16.1-278.2, subdivision 5 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

4 "Independent living placement" means placement of a child at least sixteen years of  
 5 age who is in the custody of a local board or licensed child-placing agency in a living  
 6 arrangement in which he does not have daily substitute parental supervision.

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

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

17 "Nursery school" or "preschool" means a child day-care program for children two to  
 18 five years of age at which children two through four years of age do not attend in excess  
 19 of four hours per day and children five years of age do not attend in excess of six and  
 20 one-half hours per day, and such program is operated primarily for the educational  
 21 development and instruction of two or more children also receiving care, protection, and  
 22 guidance while separated from their parents.

23 "Permanent foster care placement" means the place of residence in which a child  
 24 resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and  
 25 63.1-206.1 with the expectation and agreement between the placing agency and the place of  
 26 permanent foster care that the child shall remain in the placement until he reaches the  
 27 age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or  
 28 § 63.1-248.9. A permanent foster care placement may be a place of residence of any  
 29 natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

30 "Person" means any natural person, or any association, partnership or corporation.

31 "Registered small family day-care home" means any small family day-care home which  
 32 has met the standards for voluntary registration for such homes pursuant to regulations  
 33 prescribed by the Board of Social Services and which has obtained a certificate of  
 34 registration from the Commissioner of Social Services.

35 "Small family day-care home" means any private family home in which no more than  
 36 five children, including children related by blood or marriage to the person who maintains  
 37 the home, are received for care, protection, and guidance for monetary remuneration  
 38 during only a part of the day only .

39 § 63.1-196. Licenses required; posting of licenses; deceptive or misleading  
 40 advertising.—A. Every person who serves as or maintains a child-caring institution, an  
 41 independent foster home, child-care center, *child-placing agency*, family day-care system,  
 42 nursery school or preschool, before or after school day-care program, child day-care camp,  
 43 or a group family day-care home shall obtain an appropriate license from the  
 44 Commissioner.

45 Group family day-care homes which are members of a licensed family day-care system  
 46 are not required to obtain a license from the Commissioner. Every person not an officer,  
 47 employee, or agent of the Commonwealth, county, town, or city acting within the scope of  
 48 his authority as such, who serves as or maintains a child-placing agency, shall obtain an  
 49 appropriate license from the Commissioner.

50 B. The Commissioner shall provide for the issuance of nine categories of licenses,  
 51 namely ; (i) child-placing :

52 1. *Child-placing* agency licenses, (ii) ~~child-caring~~ ;

53 2. *Child-caring* institution licenses ; (iii) ~~independent~~ ;

54 3. *Independent* foster home licenses ; (iv) ~~child-care~~ ;

- 1 4. *Child-care center licenses ; ~~(v)~~ group ;*
- 2 5. *Group family day-care home licenses ; ~~(vi)~~ family ;*
- 3 6. *Family day-care system licenses ; ~~(vii)~~ preschool ;*
- 4 7. *Preschool and nursery school licenses ; ~~(viii)~~ before ;*
- 5 8. *Before and after school day-care program licenses, pursuant to § 63.1-202.1 ; ; and*
- 6 *~~(ix)~~ child*
- 7 9. *Child day-care camp licenses.*

8 Any two or more such licenses may be issued for concurrent operation to the same  
 9 person but each license shall be issued upon a separate form. Each license shall expire at  
 10 the end of two years from the date of its issuance, unless sooner revoked or surrendered.

11 C. The Commissioner's license and other documents issued following any other required  
 12 inspections shall be posted in a conspicuous place on the licensed premises.

13 D. No child-welfare agency licensed under this chapter shall make, publish, disseminate,  
 14 circulate, or place before the public, or cause, directly or indirectly, to be made, published,  
 15 disseminated, circulated or placed before the public in this Commonwealth, in a newspaper  
 16 or other publication, or in the form of a book, notice, handbill, poster, blueprint, map, bill,  
 17 tag, label, circular, pamphlet, or letter, or in any other way an advertisement of any sort  
 18 regarding services or anything so offered to the public, which advertisement contains any  
 19 promise, assertion, representation or statement of fact which is untrue, deceptive or  
 20 misleading.

21 E. *The following entities shall not be required to be licensed under the provisions of*  
 22 *this section:*

23 1. *Any local board of public welfare or social services which places children in foster*  
 24 *homes, adoptive homes or independent living arrangements pursuant to §§ 63.1-56,*  
 25 *63.1-204 and 63.1-220.2;*

26 2. *Any child-welfare agency exempted from licensure pursuant to § 63.1-196.3;*

27 3. *Any establishment required to be registered pursuant to the provisions of §*  
 28 *63.1-196.02 or exempted from registration pursuant to § 63.1-196.03;*

29 4. *Any group family day-care home which is a member of a licensed family day-care*  
 30 *system; or*

31 5. *Any recreation program operated by the parks and recreation unit of a local*  
 32 *government.*

33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

Official Use By Clerks	
<p>Passed By The Senate</p> <p>without amendment <input type="checkbox"/></p> <p>with amendment <input type="checkbox"/></p> <p>substitute <input type="checkbox"/></p> <p>substitute w/amdt <input type="checkbox"/></p>	<p>Passed By The House of Delegates</p> <p>without amendment <input type="checkbox"/></p> <p>with amendment <input type="checkbox"/></p> <p>substitute <input type="checkbox"/></p> <p>substitute w/amdt <input type="checkbox"/></p>
Date: _____	Date: _____
Clerk of the Senate	Clerk of the House of Delegates

1992 SESSION  
ENGROSSED

SP1753725

SENATE BILL NO. 380

Senate Amendments in [ ] - February 4, 1992

A BILL to amend and reenact § 63.1-196.5 of the Code of Virginia, relating to applicatio  
fees for child welfare agencies.

Patrons—Holland, C.A.; Delegate: Cooper

Referred to the Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-196.5 of the Code of Virginia is amended and reenacted as follows:

§ 63.1-196.5. Application fees; regulations and schedules; use of fees; certain faciliti  
exempt.—The State Board and, in the case of child care centers, the Child Day-Ca  
Council, is authorized to establish regulations and schedules for fees to be charged fo  
processing applications for licenses to operate child welfare agencies. Such schedules sha  
specify minimum and maximum fees and, where appropriate, gradations based on th  
capacity for children of the facility making application. It is the intent of the Gener  
Assembly that such fees be used for development and delivery of a broad and diver  
array of training for operators and staffs of child [ care welfare ] agencies , includin  
formal and informal training offered by institutions of higher education, state and nation  
associations representing child care providers, and licensed child care providers. To th  
maximum extent possible, the State Board and the Child Day-Care Council shall ensu  
that all child care provider interests are represented in the establishment and use of suc  
fees and that no single approach to training will be given preference. To provide for th  
delivery of such training, the [ State Board and the Child Day-Care Council Department  
shall contract with a broad and diverse array of public and private entities which off  
such training . These fees shall not be applicable to facilities operated by federal entities.

Official Use By Clerks

Passed By The Senate

without amendment

with amendment

substitute

substitute w/amdt

Passed By

The House of Delegates

without amendment

with amendment

substitute

substitute w/amdt

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Clerk of the Senate

Clerk of the House of Delegates

## 1992 SESSION

LD1248645

## SENATE BILL NO. 466

Offered January 21, 1992

A BILL to amend and reenact §§ 63.1-195 and 63.1-196 of the Code of Virginia, relating to definitions of child day-care facilities and licenses.

Patrons—Howell, Gartlan, Saslaw and Woods; Delegates: Callahan, Mayer, 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 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-care center" means any facility operated for the purpose of providing care, protection and guidance to two or more children separated from their parents or guardian during a part of the day only, except (i) a :

1. A private family home offering care to five or fewer children ; (ii) a ;

2. A group family day-care home ; (iii) a ;

3. A public school or a juvenile school unless the Commissioner determines that such school is operating a child-care center outside the scope of regular classes ; (iv) a recreation ;

4. A program operated by an entity other than a public or private school primarily for recreational development and instruction at , and enrichment activities in a public or private school or facility unless the Commissioner determines that such program is child care outside the scope of regular recreational programs, for school-age children and (v) a ; and

5. A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

The Commissioner may determine whether a school or recreational program is operating outside the scope of regular classes or regular recreational programs and is subject to licensure as required under § 63.1-196.

An hourly child-care service providing care to children on an occasional basis shall be subject to applicable child-care center standards. ~~On~~ When applying these such standards, due consideration shall be given to the number of children in care, the maximum hours any child is in care and the type of service provided.

Child-care system means any small family day-care 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.

"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) [Repealed.]

(2) 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;

(3) 2. An establishment required to be licensed as a summer camp by § 35.1-1 et seq.;

1 registered pursuant to § 63.1-196.02, or an establishment exempted from registration  
 2 pursuant to § 63.1-196.03; and

3 ~~(4)~~ 3. A bona fide hospital legally maintained as such.

4 "Child day-care camp" means a facility operated seasonally which offers seasonal or  
 5 year-round offering programs or services to two or more children separated from their  
 6 parents or guardian during part of the day only ; which ; provides care, protection, and  
 7 guidance ; and emphasizes outdoor activities. A camp is subject to licensure shall be  
 8 required to be licensed if its sessions cover a period in excess of fourteen fifteen  
 9 consecutive days or more or if the same children are eligible to attend two or more  
 10 sessions covering a period not in excess of no more than fourteen consecutive days with  
 11 fewer less than six days between sessions. However, the provisions of this section shall not  
 12 apply to any establishment required to be registered pursuant to § 63.1-196.02, or any  
 13 establishment exempted from registration pursuant to § 63.1-196.03. The Child Day-Care  
 14 Council may adopt regulations permitting occasional overnight activities in such child  
 15 day-care camps ; except a . However, no recreation playground facility operating primarily  
 16 for recreational development and , instruction , and enrichment activities during summer  
 17 vacation and whose attendance regulations allow for unmonitored arrivals and departures  
 18 shall be permitted to operate occasional overnight activities .

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

23 "Child-welfare agency" means a child-placing agency, child-care system child-caring  
 24 institution, independent foster home, child-care center, family day-care system, group family  
 25 day-care home, nursery school or preschool, before or after school programs, or child  
 26 day-care camp.

27 "Family day-care system" means any person who approves family day-care homes as  
 28 members of its system; who refers children to available day-care homes or group family  
 29 day-care homes in that system; and who, through contractual arrangement, may provide  
 30 central administrative functions including, but not limited to, training of operators of  
 31 member day-care homes; technical assistance and consultation to operators of member  
 32 day-care homes; inspection, supervision, monitoring, and evaluation of member day-care  
 33 homes; and referral of children to available health and social services.

34 "Foster care" means the provision of services or substitute care and supervision for a  
 35 child (i) who has been identified as needing services to prevent or eliminate the need for  
 36 foster care placement, (ii) who has been committed or entrusted to a local board of public  
 37 welfare or child welfare agency, or (iii) for whom the board or child welfare agency has  
 38 accepted supervision, in a temporary living situation until the child can return to his or  
 39 her family or be placed in a permanent foster care placement or in an adoptive home.

40 "Foster care placement" means placement of a child in the custody of a child-placing  
 41 agency in suitable foster family homes, child-caring institutions, residential facilities or  
 42 group homes.

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

46 "Group family day-care home" means any private family home in which no fewer less  
 47 than six and no more than twelve children are received for care, protection, and guidance  
 48 for monetary remuneration during only a part of the day only . Once a child who does not  
 49 reside in the home is received for care in exchange for monetary remuneration, all  
 50 children receiving care count in the size of the group.

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

54 "Independent foster home" means a private family home in which any child, other than

1 a child by birth or adoption of such person, resides as a member of the household and has  
 2 been placed therein independently of a child-placing agency except (i) a home in which  
 3 are received only children related by birth or adoption of the person who maintains such  
 4 home and legitimate children of personal friends of such person and (ii) a home in which  
 5 is received a child or children committed under the provisions of subdivision 4 of §  
 6 16.1-278.2, subdivision 5 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

7 "Independent living placement" means placement of a child at least sixteen years of  
 8 age who is in the custody of a local board or licensed child-placing agency in a living  
 9 arrangement in which he does not have daily substitute parental supervision.

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

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

20 "Nursery school" or "preschool" means a child day-care program for children two to  
 21 five years of age at which children two through four years of age do not attend in excess  
 22 of four hours per day and children five years of age do not attend in excess of six and  
 23 one-half hours per day, and such program is operated primarily for the educational  
 24 development and instruction of two or more children also receiving care, protection, and  
 25 guidance while separated from their parents.

26 "Permanent foster care placement" means the place of residence in which a child  
 27 resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and  
 28 63.1-206.1 with the expectation and agreement between the placing agency and the place of  
 29 permanent foster care that the child shall remain in the placement until he reaches the  
 30 age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or  
 31 § 63.1-248.9. A permanent foster care placement may be a place of residence of any  
 32 natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

33 "Person" means any natural person, or any association, partnership or corporation.

34 "Registered small family day-care home" means any small family day-care home which  
 35 has met the standards for voluntary registration for such homes pursuant to regulations  
 36 prescribed by the Board of Social Services and which has obtained a certificate of  
 37 registration from the Commissioner of Social Services.

38 "Small family day-care home" means any private family home in which no more than  
 39 five children, including children related by blood or marriage to the person who maintains  
 40 the home, are received for care, protection, and guidance for monetary remuneration  
 41 during ~~only~~ a part of the day *only*.

42 § 63.1-196. Licenses required; posting of licenses; deceptive or misleading  
 43 advertising.—A. Every person who serves as or maintains a child-caring institution, an  
 44 independent foster home, child-care center, *child-placing agency*, family day-care system,  
 45 nursery school or preschool, before or after school day-care program, child day-care camp,  
 46 or a group family day-care home shall obtain an appropriate license from the  
 47 Commissioner.

48 ~~Group family day-care homes which are members of a licensed family day-care system~~  
 49 ~~are not required to obtain a license from the Commissioner. Every person not an officer,~~  
 50 ~~employee, or agent of the Commonwealth, county, town, or city acting within the scope of~~  
 51 ~~his authority as such, who serves as or maintains a child-placing agency, shall obtain an~~  
 52 ~~appropriate license from the Commissioner.~~

53 B. The Commissioner shall provide for the issuance of ~~nine~~ *ten* categories of licenses,  
 54 namely ; (i) child-placing :

- 1 1. *Child-placing* agency licenses ; ~~(ii)~~ *child-caring* ;
- 2 2. *Child-care system* licenses;
- 3 3. *Child-caring* institution licenses ; ~~(iii)~~ *independent* ;
- 4 4. *Independent* foster home licenses ; ~~(iv)~~ *child-care* ;
- 5 5. *Child-care* center licenses ; ~~(v)~~ *group* ;
- 6 6. *Group* family day-care home licenses ; ~~(vi)~~ *family* ;
- 7 7. *Family* day-care system licenses ; ~~(vii)~~ *preschool* ;
- 8 8. *Preschool* and nursery school licenses ; ~~(viii)~~ *before* ;
- 9 9. *Before* and after school day-care program licenses, pursuant to § 63.1-202.1 ; ; and
- 10 ~~(ix)~~ *child*
- 11 10. *Child* day-care camp licenses.

12 Any two or more such licenses may be issued for concurrent operation to the same  
 13 person but each license shall be issued upon a separate form. Each license shall expire at  
 14 the end of two years from the date of its issuance, unless sooner revoked or surrendered.

15 C. The Commissioner's license and other documents issued following any other required  
 16 inspections shall be posted in a conspicuous place on the licensed premises.

17 D. No child-welfare agency licensed under this chapter shall make, publish, disseminate,  
 18 circulate, or place before the public, or cause, directly or indirectly, to be made, published,  
 19 disseminated, circulated or placed before the public in this Commonwealth, in a newspaper  
 20 or other publication, or in the form of a book, notice, handbill, poster, blueprint, map, bill,  
 21 tag, label, circular, pamphlet, or letter, or in any other way an advertisement of any sort  
 22 regarding services or anything so offered to the public, which advertisement contains any  
 23 promise, assertion, representation or statement of fact which is untrue, deceptive or  
 24 misleading.

25 E. *The following entities shall not be required to be licensed under the provisions of*  
 26 *this section:*

27 1. *Any local board of public welfare or social services which places children in foster*  
 28 *homes, adoptive homes or independent living arrangements pursuant to §§ 63.1-56,*  
 29 *63.1-204 and 63.1-220.2;*

30 2. *Any child-welfare agency exempted from licensure pursuant to § 63.1-196.3;*

31 3. *Any establishment required to be registered pursuant to the provisions of §*  
 32 *63.1-196.02 or exempted from registration pursuant to § 63.1-196.03; or*

33 4. *Any group family day-care home which is a member of a licensed family day-care*  
 34 *system.*

35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

Official Use By Clerks	
Passed By The Senate without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>	Passed By The House of Delegates without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
Clerk of the Senate	Clerk of the House of Delegates

COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS

**Summary of the Public Hearing**  
Fairfax County New Government Center  
Conference Room 4  
12000 Government Center Parkway  
Fairfax, Virginia  
Tuesday, December 8, 1992  
10:00 a.m.

Private schools - Of the 25 speakers who addressed the Commission, approximately one-third represented private schools, including Montessori and cooperative preschools. Delegate James H. Dillard, II appeared in support of his carry-over bill, House Bill 1026, which would allow private schools that have programs which fall under the definition of child day programs to be exempt from licensure if they are accredited and perform a criminal records check on employees. Speakers representing private schools voiced their support for Delegate Dillard's bill and said that their programs can be distinguished from day care by their unique educational approach in the case of Montessori and extensive parental involvement in the case of preschool cooperatives. Speakers asserted that licensing would not increase the already high quality of their programs and would only result in higher costs for taxpayers and the schools.

Public schools - A representative of the Arlington County Public Schools voiced support for Department of Education regulation of child day centers but expressed a preference for the Department of Education to work with affected school systems to develop regulatory standards rather than incorporating those promulgated by the Council on Child Day Care.

Family day homes - A number of speakers opposed allowing 12 children in a family day home even though such a home would be required to be licensed and to meet staffing requirements, stating that the large number puts children at risk. One speaker felt that a limit of 12 is desirable because it gives the provider the flexibility to offer occasional or afterschool care.

One speaker supported the provision not to count the provider's children in the group unless they are under age two but several felt that the provider's children should count and some felt that they should count only if they are under school age.

One speaker urged reexamination of the decision to remove "care" from the title family day care home and said that "day" is not descriptive because family childcare is offered at night also.

Concerns were expressed about whether the proposal adequately addresses school-age child care. Opposition to family day centers was expressed even though they would have to be licensed as child day centers. The Commission was cautioned that overregulation of family day homes could drive family day care underground.



Intermediate sanctions - There was substantial support for the proposal's recommendations for intermediate sanctions, with one speaker stating that an informal internal appeal process is not sufficient because of the serious adverse consequences that sanctions can have on a provider.

Health and Safety Precautions for Religiously Exempt Child Day Centers - Most speakers who addressed the issue supported the proposal's suggestions for increased health and safety requirements for religiously exempt child day centers. However, two speakers expressed their belief that the increased requirements threaten the separation of church and state. Several speakers questioned the logic of exempting religiously sponsored centers, stating that regulation of day care should be uniform regardless of sponsorship.

Allowing Certain Localities to Assume Regulatory Responsibility - Only a few localities addressed the proposal to allow Fairfax, Alexandria, Falls Church, and Arlington to assume sole responsibility for regulation of child day facilities if certified by the State Department of Social Services. One speaker said that the idea needs more scrutiny and one speaker opposed the concept saying that it establishes a dual regulatory system and would be a nightmare for licensees who have centers in multiple localities. One speaker proposed modifying the proposal to allow local governments to certify to the Department of Social Services that its programs meet state standards, with localities performing regular on-site inspections and reviews and having the Department of Social Services doing spot checks.

Criminal Records Checks - A number of speakers testified that the current criminal history records check performed by the Department of State Police is inadequate because of the transient population in Northern Virginia and stated that for a criminal history records check to be meaningful it must be a national check.

A list of speakers and a copy of the remarks of most of the speakers are available upon request.

#### Members Present:

Senator Stanley C. Walker, Chairman  
 Delegate Robert D. Orrock, Sr.  
 Delegate Linda T. Puller  
 Senator Janet D. Howell  
 Senator Jane H. Woods  
 Mrs. Catherine A. Belter  
 The Honorable Dorothy S. McDiarmid  
 Mrs. Carolynne Stevens for Larry D. Jackson  
 Dr. Edward (Ned) Carr for Dr. Joseph A. Spagnolo, Jr.  
 Mrs. Carolyn Fogarty for Mary Ellen Verdu

#### Staff Present:

Jessica F. Bolecek, Senior Attorney, Division of Legislative Services  
 Nancy L. Roberts, Manager  
 John McE. Garrett, Senate Deputy Clerk

**COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS**

**Summary of the Public Hearing**  
Roanoke City Council Chambers  
Municipal Building, Fourth Floor  
215 Church Street  
Roanoke, Virginia  
Wednesday, December 9, 1992  
10:00 a.m.

Parent and Teacher Education - Of the eleven speakers who addressed the Commission, four emphasized the importance of parent and teacher education. They believe that parents must understand the competencies required and be supported with resource and referral programs in finding quality programs. Moreover, anyone who works with young children as well as those who enforce the regulations must understand child development, appropriate discipline, and skill-building activities. To overlook these areas, the speakers said, would be to lose an important opportunity. The Commission was cautioned not to be governed solely by budgetary considerations, because the decisions will have long term impact.

Licensing - One speaker described the value of licensing as a source of expert knowledge for new centers and asserted that every child deserves the protection that licensing offers. Another speaker believed that all group care should be licensed, regardless of the sponsoring organization, the location, or the program length. Three persons noted the minimal nature of the current guidelines that deal with fire and safety codes, health and nutrition, sanitation, employee qualifications, physical space, staff to child ratios and curriculum guidelines. Another informed the Commission that the Department of Social Services will reimburse unregulated care. This speaker believed that no child should be in unregulated care for so many hours during the day and recommended increased funding for child subsidies and provider education to accompany increased regulation.

In contrast, a final speaker on this subject expressed concern that stronger licensing standards might discourage small home care and force more children into large settings. She emphasized the need for options and for parent education and was concerned about due process rights in the application of intermediate sanctions.

Flexible Regulation - One speaker cited the need for "common sense" regulation. A home which may not meet all of the guidelines may still meet the parent's expectations. Another urged recognition of the unique features of some child care programs. He contrasted the five-day-a-week, three-hours-a-day program that serves no meals with the 12 to 16 hours-a-day center and recommended different regulations for different categories of child care.

Conservation and Recreation Programs - A representative of the Blacksburg Town Council supported the Commission's proposal and specifically urged the adoption of the exemptions for recreational and instructional programs operated by local governments.

A list of speakers and a copy of the remarks for most of the speakers are available upon request.

**Members Present:**

Delegate Joan H. Munford, Vice-Chairman  
Delegate Joyce K. Crouch  
Mrs. Mary Spangenthal  
Ms. Mary Ellen Verdu  
Ms. Lee Morowitz for Larry D. Jackson  
Dr. Edward (Ned) Carr for Dr. Joseph A. Spagnolo, Jr.

**Staff Present:**

Nancy L. Roberts, Manager, Division of Legislative Services  
Aubrey Stewart, Senate Clerk's Office

**COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS**

**Summary of the Public Hearing**  
Norfolk City Council Chambers  
City Hall Building, 11th Floor  
810 Union Street  
Norfolk, Virginia  
Thursday, December 10, 1992  
10:00 a.m.

**Exemptions** - The exemption issue permeated the presentations at this public hearing. Should there be exemptions or exceptions for religious, home child care, education oriented or other such facilities? Of the twelve witnesses appearing before the Commission, nine favored no exemptions or exceptions. Three speakers, representing private educational institutions, favored exempting certain educational institutions, if accredited by the National Association of Independent Schools or some other organization recognized by the Department of Education. Those favoring exemptions stated that duplicatory review by a regulatory agency and an accredited organization could waste a regulator's time that could be better spent elsewhere. Also, unnecessary costs to the private educational facility would result.

When questioned by the Commission for specifics relative to unnecessary costs, two of the presenters (Mary Nexsen and Cherie Geiger) promised to follow up with information illustrating specific examples. Also evidence was presented that (1) private educational institutions were permitted to operate while in the application stage for accreditation, (2) standards of some accreditation organizations required a full review only once every ten years with interim examinations and site visits every five years, and (3) all visits were prearranged and planned.

**Funding** - At least one presenter noted that the regulatory process would be severely compromised if funding were inadequate to finance sufficient staff to administer the program. The application, investigatory and review processes should be properly financed so as not to impair the smooth operation of the child care facilities or otherwise unduly burden child care providers.

**Health and Safety Precautions** - One speaker specifically noted the need for basic training for all day care providers including CPR, first aid and child development courses and also supported a requirement that all providers must submit to certain health and fire inspections.

**Criminal Record Checks** - A spokesperson from a child abuse prevention committee opined that the State has an obligation to maintain a reliable system for investigating child abuse complaints directed toward child care providers. An accurate and accessible child abuse and neglect registry would be a relatively easy way for a parent to obtain information.

Summary - All twelve presenters at the public hearing were complimentary of the Commission's work and of the proposed recommendations. All were supportive of the need to license child care facilities. However, private educational providers favored exemptions for those facilities that are accredited by a state, regional or national accreditation organization recognized by the Board of Education.

A list of speakers and a copy of the remarks for most of the speakers are available upon request.

**Members Present:**

Senator Stanley C. Walker, Chairman  
Ms. Carolynne Stevens for Larry D. Jackson  
Ms. Mary Ellen Verdu  
Dr. Edward (Ned) Carr for Dr. Joseph A. Spagnolo, Sr.

**Staff Present:**

E. M. Miller, Jr., Division of Legislative Services  
John McE. Garrett, Senate Deputy Clerk

**COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS**

**Summary of the Public Hearing  
General Assembly Building  
Senate Room B  
910 Capitol Street  
Richmond, Virginia  
Friday, December 11, 1992  
10:00 a.m.**

Nine persons spoke at this public hearing.

One parent objected to government intervention in setting standards for day care. He stated that parents should decide what is in the best interest of their children and what child care environment is appropriate. He also opposed the State expenditures required to regulate day care, saying that it would be more appropriate to lower taxes so that it would not be necessary to have two wage earners and children in day care.

One speaker supported licensure of all facilities that care for children, saying that all children deserve this protection. She presented a petition stating that current licensing laws are fragmented and inequitable and provide inadequate protection for children and urging regulation of all child care. She said that she will continue to collect signatures.

The director of the Hanover County Parks and Recreation Program requested that Hanover's summer playground program which operates from 9 a.m. to 2 p.m. for seven weeks for children ages 5-12 be exempt from licensure because it is educational and recreational in nature. He stated that if not exempted, Hanover will modify its program to allow children to come and go freely so that it will be exempt from licensure. When questioned about the burdens that licensure would impose, he replied that requirements for food preparation and CPR training would be obstacles. He said that the cost of becoming licensed is difficult to project, but he fears that some children would be unable to attend because the increased cost of the program would be passed to consumers.

A representative of Henrico County asked that the word "tutoring" be removed from the paragraph that exempts from licensure "an instructional class or program of classes focused on specific cultural, athletic, or academic skill or interest, such as but not limited to dance, karate, music, basketball or tutoring wherein no child under nine years of age attends for more than a total of six hours within a five consecutive day period" to ensure that Henrico County's after-school tutorial program will fall under the provision that allows the Department of Education to regulate non-compulsory programs offered by public schools.

She also asked that the Commission clarify its recommendation regarding programs of a limited duration so that it would be clear that Henrico County's summer recreation program which consists of four two-week day camps at a single location be exempt from licensure. She suggested that school playgrounds which meet the safety requirements set by the school administration be presumed to meet the requirements of the child day care regulations.

A grandmother advocated for greater regulation of family day care homes. She reported that her grandson was seriously injured while in such a home and because the provider did not notify the family of the injury, medical care was delayed until the child was picked up at the end of the day. No recourse could be taken against the provider since she was not required to notify the parents if the child was injured.

Two speakers with children in the Richmond Montessori School spoke in favor of House Bill 1026 (Delegate James Dillard, II) which would allow private schools that have programs which fall under the definition of child day programs to be exempt from licensure if they are accredited and perform a criminal records check on employees. The speakers believe that accreditation provides an assurance of quality and pointed out that complaints about child care do not stem from Montessori schools. The speakers asserted that licensing has not increased the already high quality of their programs and changes in regulations result in higher costs for the schools.

A representative of the Virginia Assembly of Independent Baptists urged that the religious exemption be retained as it now exists and that the Commission's proposals for increased monitoring of religiously exempt facilities be rejected.

A representative of the Proprietary Child Care Association of Virginia objected to the Commission's proposed sanctions saying that it would be preferable to concentrate on the issue of who should be licensed and having more of Virginia's children in the care of licensed providers rather than adding sanctions for providers already licensed. He also opposed the Commission's proposal to allow certain localities to assume regulatory responsibility if certified by the State Department of Social Services, saying that it establishes a dual regulatory system and would be confusing for consumers. He supported equal regulation of all child care providers regardless of program sponsorship.

A list of speakers and a copy of the remarks of most of the speakers are available upon request.

**Members Present:**

Senator Stanley C. Walker, Chairman  
Delegate Linda T. Puller  
Ray Goodwin for Larry D. Jackson  
Mrs. Mary Spangenthal  
Ms. Mary Ellen Verdu

**Staff Present:**

Jessica F. Bolecek, Senior Attorney, Division of Legislative Services  
Nancy Roberts, Manager, Division of Legislative Services  
John McE. Garrett, Senate Deputy Clerk  
Aubrey Davis, Senate Clerk's Office

## SUMMARY OF THE COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS

Written Comments and Phone Calls  
December 8-11, 1992

**Montessori Schools.** Parents of children enrolled in Montessori schools urge the Commission to exempt such schools and others like it from regulation by the Child Day-Care Council. These persons emphasize that Montessori schools do not provide day care, but offer preschool programs with a specific educational philosophy and focus. They also maintain that the proposed regulations, particularly teacher/child ratios and bathroom facilities, are burdensome and would disrupt the schools' educational process.

**Local Parks and Recreation Programs.** Letters were received from the governing body of the Town of Blacksburg, Campbell and Prince George Counties, and the City of Waynesboro concerning the regulation of local parks and recreation programs. Elected officials of these localities request the Commission to recommend that local parks and recreation programs be exempted from regulation for child day programs. It is the position of these persons that regulation is not necessary because the programs are instructional and recreational; such programs meet local needs; and regulation would increase program costs, making them unaffordable for many families. Some officials question the logic and efficacy of exempting church-run programs and certain family day care homes from licensure while requiring local parks and recreation programs to be regulated. The concensus of this group is that local governments which establish and fund such programs should be allowed to govern their own programs.

**Head Start.** The New River Community Action, Inc. Head Start Program questioned the need for regulation by the state given the fact that the Head Start Program is already subject to regulation by federal Head Start performance standards. The program representative also noted that compliance with regulations by the state would pose a significant problem because the New River Community Action program operates nine centers and each would be required to be licensed. Several of the centers may have to relocate to meet proposed licensing standards. Also, the program representative emphasized the need for requiring staff training.

**Child Care Resource and Referral.** The Smyth County Extension Office requests that the General Assembly continue its funding of resource and referral programs in Virginia to ensure that day care services will continue to be available in rural and less affluent areas of the state. The Office also indicated that because the demand for day care far exceeds the supply in rural areas of Virginia, it is very important that resource and referral programs remain viable to make child care available to families that need it in Smyth County.

**Support of Commission Proposal.** Early Works Developmental Child Care, a licensed and nationally accredited child care program, supports the strengthening of regulations to ensure child health and safety.



**Full and Half Day Programs.** Many Southern Baptist churches in Virginia program a full range of programs for children including weekday preschool programs and full and half day programs which may meet only a few days a week. The representative for the General Board of the Baptist General Association of Virginia indicates that churches that desire to establish such programs are advised to seek licensure. However, the Board is concerned that one set of regulations will be applied to all types of programs without consideration given to the differences between programs, i.e., full and half day programs. The Board also expressed concern that the Commission lacked representation from church-sponsored and half day programs or persons who can articulate their perspectives.

**Regulation of Church-Sponsored Programs.** The Virginia Interfaith Center for Public Policy and the Virginia Council of Churches support Secretary Cullum's recommendation that the state continue to exempt religiously affiliated day care programs, and that the oversight of such programs be strengthened to ensure compliance with basic health and safety standards.

**Family Day Care Homes.** The Northern Virginia Family Day Care Association is concerned that overregulation will dismantle the true concept of family day care and will promote an institutional type setting rather than home based care. The Association supports limiting the number of children under the age of two that a family day care home may care for to no more than four children. It is the position of the Association that the children of providers and other children age eight or older should not be included in the size of the group counted for purposes of regulation. Further, the Association indicated that (i) uniformity among the various types of care and care settings is needed; (ii) requiring providers to count their own children in the size of the group will reduce the availability of family day care and limit the flexibility that this child care option offers parents; (iv) the current point system is economically unfeasible to family day care home providers and serves as a disincentive to licensure; and (v) regulations should enable family day care homes to continue to serve multi-age children.

**Virginia Association of Counties and Virginia Municipal League.** "VACO supports state policies that encourage availability of quality, affordable child care options for Virginians of all income levels. State efforts to regulate child care must be realistic and cost-effective so that affordable, quality public and private programs are not driven out of the market." "VML agrees that those local governments currently regulating their own programs should be allowed to continue to do so, or to opt to regulate all of the programs within their jurisdiction. VML opposes unrealistic regulations for child day care programs that will drive needed programs out of the market. State regulations should stick to basic health and safety requirements that can be monitored and stay clear of voluminous program and staffing requirements that will either drive providers out of existence or underground." The VML also raised two questions:

- (i) Under 2(b), certain programs for children under nine years of age are exempted from regulation. What about the same programs for children older than nine years of age?
- (ii) What happens when a public program meets some of the standards for exemption, but also contains a component that does not? Is the entire program then required to be licensed?

**YMCA.** The YMCA of South Hampton Roads has raised a number of questions concerning child-minding services and local government regulation of programs within its jurisdiction in which they seek clarification.

- (i) Is a parent required to be at the site during the time of the child's care?
- (ii) Can a child-minding program serve as a drop-off center?
- (iii) Can a child-minding program serve as an after school care program in a recreational facility?
- (iv) How would the thirty minutes time frame for parental resumption of responsibility be monitored and by whom?
- (v) What is your definition of "commercial" and "recreational" establishments with regard to child-minding programs?

The YMCA also expressed the following concerns:

- (i) Because these are minimum standards, it is essential that every child care providing agency be licensed.
- (ii) It may be necessary in rural areas with no social service departments to contract with private nonprofit agencies for specific services.

**Staff Qualifications.** Some believe that the educational qualifications are too stringent and will result decrease the pool of eligibile providers and staff. It is the opinion of some that appropriate training on-site will be sufficient to produce a competent care provider.

**Exemptions.** Church-run/church-sponsored day care programs should not be exempt from regulation.

**Health Clubs and Private Sitters.** Some persons question the applicability of the regulations to child-minding services, child care, and babysitting provided by health clubs and private sitters.

**Nursery Schools.** Some indicate that the goals of nursery schools are not the same as the clientele which may use them. Nursery schools which run for three hours and do not serve meals should not be regulated as day care. Nursery schools provide educational choices for parents of preschoolers.

**HB 1035.** Some support the full implementation of HB 1035 as it was passed by the 1990 General Assembly, without any modifications.



COMMONWEALTH of VIRGINIA  
 Department of Social Services

Office of the Commissioner

Blair Building  
 17 Discovery Drive  
 Alexandria, Virginia 22228-8699

Larry D. Jackson  
 Commissioner

DATE: January 6, 1993

TO: The Commission on Early Childhood and Child Day Care Programs

FROM: Ray C. Goodwin, Deputy Commissioner  
 Department of Social Services *Ray Goodwin*

SUBJECT: Implementation of The Commission's Recommendations on Child Day Programs

At the last meeting of the full Commission, the Department of Social Services was requested to provide a plan to implement Child Day Program regulation based on the current proposed changes.

Pursuant to this request the following information is provided:

BUDGET REQUIREMENTS FOR IMPLEMENTATION OF DRAFT COMMISSION  
 RECOMMENDATIONS FOR REGULATION OF CHILD DAY PROGRAMS

FY93-94

27 Grade 10 Inspectors	\$1,088,910.00
6 Grade 6 Technicians	216,006.00
3 Grade 12 Managers/Trainers	<u>135,372.00</u>
	\$1,440,288.00
<b>36 New Positions</b>	

FY94-95

Recurring Costs	\$1,311,900.00
15 Grade 10 Inspectors	
5 for Centers 10 for FDCH	<u>604,950.00</u>
Projected 94-95 Costs	\$1,916,850.00
<b>15 New Positions</b>	

- 2 -

## FY95-96

Recurring Costs	\$1,874,175.00
10 Inspectors for FDCH	<u>403,300.00</u>
Projected 95-96 Costs	\$2,277,475.00

10 New Positions

## FY96-97

Recurring Costs	\$2,076,057.00
10 Inspectors for FDCH	<u>403,300.00</u>
Projected 96-97 Costs	\$2,479,357.00

10 New Positions

## FY97-98

Recurring Costs	\$2,450,907.00
10 Inspectors for FDCH	<u>403,000.00</u>
Projected 97-98 Costs	\$2,853,907.00

10 New Positions

## FY98-99

Recurring Costs	\$2,825,757.00
6 Inspectors for FDCH	<u>241,980.00</u>
Projected 98-99 Costs	\$3,067,737.00

6 New Positions

## METHOD OF COMPUTING COST FOR STAFF

	Start-up Costs	Recurring Costs
Grade 6 Step 3	\$36,001,00	\$28,828
Grade 10 Step 3	40,330,00	37,485
Grade 12 Step 3	45,124,00	42,279

Includes equipment, travel and space cost but does not include Northern Virginia salary difference.

The current licensing workload standard is 50 child day centers or 100 Family Day Homes per investigator. The Family Day Home workload will grow at a slower pace because many providers will have to be identified and encouraged to become licensed. We plan to find the total Family Day Home workload over a six year time frame.

- 3 -

The Administration budget proposes an increase for the Division of Licensing Programs based on current workload. There is no proposed funding for implementation of the Commission's proposal. An appropriation will be required to implement the Commission's recommendations.

### WORKLOAD PROJECTIONS

#### CHILD DAY CENTERS

The Child Care Exempt caseload in November 1992 was 277 facilities. Assuming responsibility for health and safety inspections and investigating complaints will require three inspectors.

Previous data indicates: 1400 new centers  
 -209 to be regulated by Education\*  
 -242 other arrangements such as Boys and  
 Girls Clubs, Parks and Recreations  
 due to new definitions.  
 949 new centers

\* Best available data indicates.

The current standard of 50 centers per Investigator requires 19 staff. We will need an additional 14 Grade 10 Investigators. We will plan to bring in 5 of these staff in FY93-94.

#### FAMILY DAY HOMES

Our best estimate is 6,214 homes. This workload would be assumed over a period of six years, with major emphasis on educating customers and encouraging provider training and professionalism. These projections are based on an increase of 1000 Family Day Homes per year.

#### SUMMARY OF WORKLOAD INCREASE

949 new centers in 1993/94  
1000 new family day homes in 1993/94  
 1949 workload increase

#### BUDGET SUMMARY

\$1,440,288.00 1993/94 COST  
 \$740.00 per facility

Based on the current program, the cost per child is \$14.89 a year.

PRELIMINARY WORK PLAN FOR  
REVISION OF CHILD DAY PROGRAM REGULATIONS

<u>Activity</u>	<u>Date</u>
In-house Review of Proposed Regulatory Package	February-March, 1993
Approval of Proposed Regulations by Board/Council	March, 1993
Publication of Proposed Regulations	April, 1993
Public Comment Period, Public Hearing	April-May, 1993
Recommendations for Revisions to Board/Council	May-June, 1993
Approval of Final Regulations by Board/Council	June-July, 1993
Publication of Final Regulations	July-August, 1993
Prepare for Implementation/Train Staff	July-September, 1993
Provider Training Meetings	September, 1993
Regulations Become Effective	November 1, 1993
Issue Initial Licenses Under New Regulations	January 1, 1994

Notes: Regulations for child day centers and family day centers are promulgated by the Child Day-Care Council. Regulations for family day homes are promulgated by the State Board of Social Services.

This work plan is predicated on the current draft report of the Commission on Early Childhood and Child Day Care Programs.

If intermediate sanctions are approved, emergency regulations will be needed to maintain this time frame.

Implementation will require approval of an appropriation of funds as proposed in the attached budget.

LD6583753

1 D 1/16/93 Bolecek C 1/18/93 jds

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend and reenact §§ 22.1-19, 63.1-195, 63.1-196, 63.1-  
 4 196.01, 63.1-196.03, 63.1-196.04, 63.1-196.3, 63.1-196.5,  
 5 63.1-198, 63.1-198.01, 63.1-198.1, 63.1-198.2, 63.1-199,  
 6 63.1-202, 63.1-202.1, and 63.1-210.1 of the Code of Virginia; to  
 7 amend the Code of Virginia by adding sections numbered  
 8 63.1-196.001, 63.1-196.01:1, 63.1-198.03, 63.1-201.1, 63.1-211.2,  
 9 and 63.1-211.3; and to repeal Chapter 801, as amended, of the  
 10 1990 Acts of Assembly, relating to child day programs.

11

12 Be it enacted by the General Assembly of Virginia:

13 1. That §§ 22.1-19, 63.1-195, 63.1-196, 63.1-196.01, 63.1-196.03,  
 14 63.1-196.04, 63.1-196.3, 63.1-196.5, 63.1-198, 63.1-198.01,  
 15 63.1-198.1, 63.1-198.2, 63.1-199, 63.1-202, 63.1-202.1, and 63.1-210.1  
 16 of the Code of Virginia are amended and reenacted and that the Code of  
 17 Virginia is amended by adding sections numbered 63.1-196.001,  
 18 63.1-196.01:1, 63.1-198.03, 63.1-201.1, 63.1-211.2, and 63.1-211.3 as  
 19 follows:

20 § 22.1-19. Accreditation of elementary, middle, and high  
 21 schools; nursery schools; child day center regulation.--The Board  
 22 shall provide for the accreditation of public elementary, middle, and  
 23 high schools in accordance with standards prescribed by it. The Board  
 24 may provide for the accreditation of private elementary, middle, and  
 25 high schools in accordance with standards prescribed by it, taking  
 26 reasonably into account the special circumstances and factors  
 27 affecting such private schools. The Board in its discretion may  
 28 recommend provisions for standards for private nursery schools. Any

1 such accreditation shall be at the request of the private school only.

2 The Board shall promulgate accreditation regulations that  
 3 incorporate, but may exceed, the regulations for child day centers  
 4 promulgated by the Child Day-Care Council, for those child day centers  
 5 described in subdivision A 8 of § 63.1-196.001.

6 § 63.1-195. Definitions.--As used in this chapter:

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

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

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

15 ~~"Child-care-center" means any facility operated for the purpose~~  
 16 ~~of providing care, protection and guidance to a group of children~~  
 17 ~~separated from their parents or guardian during a part of the day~~  
 18 ~~only, except a facility required to be licensed as a summer camp under~~  
 19 ~~§ 35.1-1-et-seq., a public school or a private school unless the~~  
 20 ~~Commissioner determines that such private school is operating a~~  
 21 ~~child-care center outside the scope of regular classes, a school~~  
 22 ~~operated primarily for the educational instruction of children from~~  
 23 ~~two to five years of age at which children two through four years of~~  
 24 ~~age do not attend in excess of four hours per day and children five~~  
 25 ~~years or more do not attend in excess of six and one-half hours per~~  
 26 ~~day, a facility operated by a hospital on the hospital's premises,~~  
 27 ~~which provides care for the children of the hospital's employees, while~~  
 28 ~~such employees are engaged in performing work for the hospital, and a~~



1 Sunday-school-conducted-by-a-religious-institution-or-a-facility-  
2 operated-by-a-religious-organization-where-children-are-cared-for-  
3 during-short-periods-of-time-while-persons-responsible-for-such-  
4 children-are-attending-religious-services.--An-hourly-child-care-  
5 service-providing-care-to-children-on-an-occasional-basis-shall-be-  
6 subject-to-applicable-child-care-center-standards.--On-applying-those-  
7 standards,-due-consideration-shall-be-given-to-the-number-of-children-  
8 in-care,-the-maximum-hours-any-child-is-in-care-and-the-type-of-  
9 service-provided.--

10 "Child-caring institution" means any institution, other than an  
11 institution-operated-by-the-Commonwealth,-a-county-or-city,-and-  
12 maintained for the purpose of receiving children for full-time care,  
13 maintenance, protection and guidance separated from their parents or  
14 guardians, except:

15 ~~(1) Repeated.--~~

16 ~~(2)-1.~~ A bona fide educational institution whose pupils, in the  
17 ordinary course of events, return annually to the homes of their  
18 parents or guardians for not less than two months of summer vacation;

19 ~~(3)-2.~~ An establishment required to be licensed as a summer  
20 camp by ~~§-35:1-1-et-seq.--~~ Title 35.1 ; and

21 ~~(4)-3.~~ A bona fide hospital legally maintained as such.

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

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

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

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

11 "Child welfare agency" means a child day center, child day center  
 12 system, child-placing agency, child-caring institution, family day  
 13 home, family day system, or independent foster home ~~7-child-care-~~  
 14 ~~center,7-family-day-care-system-or-family-day-care-home-.~~

15 ~~"Family-day-care-home"-means-any-private-family-home-in-which-~~  
 16 ~~more-than-five-children,7-except-children-related-by-blood-or-marriage-~~  
 17 ~~to-the-person-who-maintains-the-home,7-are-received-for-care,7-~~  
 18 ~~protection-and-guidance-during-only-a-part-of-the-twenty-four-hour-~~  
 19 ~~day,7-except-(i)-homes-which-accept-children-exclusively-from-local-~~  
 20 ~~departments-of-welfare-or-social-services,7-(ii)-homes-which-have-been-~~  
 21 ~~approved-by-a-licensed-day-care-system-or-(iii)-homes-which-accept-up-~~  
 22 ~~to-ten-children,7-at-least-five-of-whom-are-of-school-age-and-are-not-~~  
 23 ~~in-the-home-for-longer-than-three-hours-immediately-before-and-three-~~  
 24 ~~hours-immediately-after-school-hours-each-day.---~~

25 "Family day home" means a child day program offered in the  
 26 residence of the provider or the home of any of the children in care  
 27 for one through twelve children under the age of thirteen, exclusive  
 28 of the provider's own children and any children who reside in the

1 home, when at least one child receives care for compensation. From  
2 July 1, 1993, until July 1, 1996, family day homes serving nine  
3 through twelve children, exclusive of the provider's own children and  
4 any children who reside in the home, shall be licensed. Effective  
5 July 1, 1996, family day homes serving six through twelve children,  
6 exclusive of the provider's own children and any children who reside  
7 in the home, shall be licensed. However, no family day home shall  
8 care for more than four children under the age of two, including the  
9 provider's own children and any children who reside in the home,  
10 unless the family day home is licensed or voluntarily registered.

11 "Family-day-care-system"-"Family day system" means any person  
12 who approves family day-care-day homes as members of its system ,  
13 refers children to available day-care-family day homes in that  
14 system and, through contractual arrangement, may provide central  
15 administrative functions including, but not limited to, training of  
16 operators of family-day-care-member homes; technical assistance and  
17 consultation to operators of family-day-care-member homes;  
18 inspection, supervision, monitoring, and evaluation of family-day-care  
19 member homes; and referral of children to available health and social  
20 services.

21 "Foster care" means the provision of services or substitute care  
22 and supervision for a child (i) who has been identified as needing  
23 services to prevent or eliminate the need for foster care placement,  
24 (ii) who has been committed or entrusted to a local board of public  
25 welfare or social services or child welfare agency, or (iii) for whom  
26 the board or child welfare agency has accepted supervision, in a  
27 temporary living situation until the child can return to his or her  
28 family or be placed in a permanent foster care placement or in an

1 adoptive home.

2 "Foster care placement" means placement of a child in the custody  
3 of a child-placing agency in suitable foster family homes,  
4 child-caring institutions, residential facilities or group homes.

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

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

11 "Independent foster home" means a private family home in which  
12 any child, other than a child by birth or adoption of such person,  
13 resides as a member of the household and has been placed therein  
14 independently of a child-placing agency except (i) a home in which are  
15 received only children related by birth or adoption of the person who  
16 maintains such home and legitimate-children of personal friends of  
17 such person and (ii) a home in which is received a child or children  
18 committed under the provisions of subdivision 4 of § 16.1-278.2,  
19 subdivision 5 of § 16.1-278.4, or subdivision 13 of § 16.1-278.8.

20 "Independent living placement" means placement of a child at  
21 least sixteen years of age who is in the custody of a local board or  
22 licensed child-placing agency in a living arrangement in which he does  
23 not have daily substitute parental supervision.

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

1 "Interstate placement" includes the arrangement for the care of a  
2 child in an adoptive home, foster care placement or in the home of the  
3 child's parent or with a relative or nonagency guardian, into or out  
4 of the Commonwealth of Virginia, by a child-placing agency or court  
5 when the full legal right of the child's parent or nonagency guardian  
6 to plan for the child has been voluntarily terminated or limited or  
7 severed by the action of any court.

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

17 "Person" means any natural person, or any association,  
18 partnership or corporation.

19 "~~Registered-small-family-day-care-home~~"-"Registered family day  
20 home" means any ~~small-family-day-care~~-family day home which has met  
21 the standards for voluntary registration for such homes pursuant to  
22 regulations ~~prescribed-promulgated~~ by the State Board of Social  
23 Services and which has obtained a certificate of registration from the  
24 Commissioner of ~~Social-Services~~.

25 "~~Small-family-day-care-home~~"-means-any-private-family-home-in-  
26 which-no-more-than-five-children,-except-children-related-by-blood-or-  
27 marriage-to-the-person-who-maintains-the-home,-are-received-for-care,-  
28 protection,-and-guidance-during-only-a-part-of-the-day---Further,-a-

1 family-day-care-home-which-accepts-no-more-than-ten-children,-at-least  
 2 five-of-whom-are-of-school-age-and-are-not-in-the-home-for-longer-than  
 3 three-hours-immediately-before-and-three-hours-immediately-after-  
 4 school-hours-each-day,-may-also-voluntarily-register-as-a-small-family  
 5 day-care-home:--

6 § 63.1-196. Licenses required; posting of licenses; variances to  
 7 regulations.--A. Every person ~~not-an-officer,-employee-or-agent-of-~~  
 8 ~~the-Commonwealth,-county,-town-or-city-acting-within-the-scope-of-his-~~  
 9 ~~authority-as-such,-who~~ serves as or maintains a child-placing-agency,-  
 10 a-child-caring institution, a child day center, a child day center  
 11 system, a child placing agency, a family day home required to be  
 12 licensed by § 63.1-195, a family day system, or an independent foster  
 13 ~~home, child-care-center,-family-day-care-system-or-a-family-day-care-~~  
 14 ~~home~~-shall obtain an-the appropriate license from the Commissioner.

15 B. The Commissioner shall ~~provide-for-the-issuance-of-six-issue~~  
 16 the following categories of licenses ~~,-namely,-(i)-child---placing-~~  
 17 ~~agency-licenses,-(ii)-child-caring-institution-licenses,-(iii)-~~  
 18 ~~independent-foster-home-licenses,-(iv)-child-care-center-licenses,-(v)-~~  
 19 ~~family-day-care-home-licenses-and-(vi)-family-day-care-system-licenses~~  
 20 : (i) child-caring institution, (ii) child day center, (iii) child day  
 21 center system, (iv) child-placing agency, (v) family day home, (vi)  
 22 family day system, and (vii) independent foster home .

23 Any two or more such licenses may be issued for concurrent  
 24 operation to the same person but each license shall be issued upon a  
 25 separate form. Licenses issued under this chapter may be issued for  
 26 periods of up to three successive years from the date of issuance,  
 27 unless sooner revoked or surrendered.

28 C. ~~Such-licenses-~~The license and any other documents required

1 by the Commissioner shall be posted in a conspicuous place on the  
2 licensed premises.

3 D. ~~No child-welfare-agency-licensed-under-this-chapter-shall-~~  
4 ~~make,-publish,-disseminate,-circulate,-or-place-before-the-public,-or-~~  
5 ~~cause,-directly-or-indirectly,-to-be-made,-published,-disseminated,-~~  
6 ~~circulated-or-placed-before-the-public-in-this-Commonwealth,-in-a-~~  
7 ~~newspaper-or-other-publication,-or-in-the-form-of-a-book,-notice,-~~  
8 ~~handbill,-poster,-blueprint,-map,-bill,-tag,-label,-circular,-~~  
9 ~~pamphlet,-or-letter,-or-in-any-other-way-an-advertisement-of-any-sort-~~  
10 ~~regarding-services-or-anything-so-offered-to-the-public,-which-~~  
11 ~~advertisement-contains-any-promise,-assertion,-representation-or-~~  
12 ~~statement-of-fact-which-is-untrue,-deceptive-or-misleading.--The~~  
13 Commissioner may grant a variance to a regulation when the  
14 Commissioner determines that (i) a licensee or applicant has  
15 demonstrated that the implementation of a regulation would impose a  
16 substantial financial or programmatic hardship and (ii) the variance  
17 would not adversely affect the safety and well-being of children in  
18 care.

19 § 63.1-196.001. Exemptions from licensure.--A. The following  
20 child day programs shall not be required to be licensed:

21 1. A child day center that has obtained an exemption pursuant to

22 § 63.1-196.3.

23 2. A program where, by written policy given to and signed by a  
24 parent or guardian, children are free to enter and leave the premises  
25 without permission or supervision.

26 3. An instructional class or program of classes founded on a  
27 specific cultural, athletic, or academic skill or interest, such as,  
28 but not limited to, dance, karate, music, or basketball, unless a

1 child under nine years of age attends for more than a total of six  
2 hours within a five-consecutive-day period.

3 4. A program of instructional experience in a single focus, such  
4 as, but not limited to, computer science, archaeology, sport clinics,  
5 or music, if children below the age of five do not attend at all and  
6 if no child is allowed to attend for more than twenty-five days in any  
7 three-month period commencing with enrollment. This exemption does  
8 not apply if children merely change their enrollment to a different  
9 focus area at a site offering a variety of activities and such  
10 children's attendance exceeds twenty-five days in a three-month  
11 period.

12 5. A multi activity recreation program for children at least  
13 five years of age wherein no child attends for more than a total of  
14 six hours within a five-consecutive-day period.

15 6. A program that is in service for no more than fourteen  
16 consecutive calendar days per year or that operates intermittently for  
17 no more than a total of twenty program days in the course of a  
18 calendar year.

19 7. Instructional programs offered by public and private schools  
20 that satisfy compulsory attendance laws or the Individuals with  
21 Disabilities Education Act and programs of school-sponsored  
22 extracurricular activities that are focused on single interests such  
23 as, but not limited to, music, sports, drama, civic service, or  
24 foreign language.

25 8. Education and care programs provided by public schools which  
26 are not exempt pursuant to subdivision A 7 of this section shall be  
27 regulated by the State Board of Education using regulations that  
28 incorporate, but may exceed, the regulations for child day centers



1 licensed by the Commissioner.

2 9. Early intervention programs for children eligible under Part  
3 H of the Individuals with Disabilities Education Act wherein no child  
4 attends for more than a total of six hours per week.

5 10. Practice or competition in organized competitive sports  
6 leagues.

7 11. Programs of religious instruction, such as Sunday schools,  
8 vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and  
9 child-minding services provided to allow parents or guardians who are  
10 on site to attend religious worship or instructional services.

11 12. Child-minding services which are not available for more than  
12 three hours per day for any individual child offered on site in  
13 commercial or recreational establishments if the parent or guardian  
14 (i) is not an on-duty employee, (ii) can be contacted and can resume  
15 responsibility for the child's supervision within thirty minutes, and  
16 (iii) is receiving services or participating in activities offered by  
17 the establishment.

18 B. Family day homes that are members of a licensed family day  
19 system shall not be required to obtain a license from the  
20 Commissioner.

21 C. Officers, employees, or agents of the Commonwealth, or of any  
22 county, city, or town acting within the scope of their authority as  
23 such, who serve as or maintain a child-placing agency shall not be  
24 required to be licensed.

25 § 63.1-196.01. Dual licenses for certain child day centers.--Any  
26 facility licensed as a child care-day center which also meets the  
27 requirements for a license as a summer camp by the Department of  
28 Health under the provisions of § 35.1-18 shall be entitled to a summer

1 camp license. Such a facility shall comply with all of the rules-and-  
2 regulations promulgated by the ~~Department~~-State Board of Social  
3 Services or Child Day-Care Council, whichever is applicable, and  
4 ~~Department~~-the State Board of Health for each such license.

5 § 63.1-196.01:1. Licensure of child day center systems; licenses  
6 required for member centers; promulgation of regulations; etc.--A.

7 The Commissioner of Social Services shall license qualified child day  
8 center systems.

9 B. Child day center systems shall apply regulations for child  
10 day centers, in the form promulgated by the Child Day-Care Council or  
11 the State Board of Social Services, to member centers. Child day  
12 center systems may apply additional operational or accreditation  
13 standards to member centers.

14 C. Any person who desires to operate a child day center as a  
15 member of a licensed child day center system shall, prior to beginning  
16 any such operation, apply for a license and thereafter, prior to the  
17 expiration of the license, apply for renewal thereof.

18 D. A child day center system shall have the right, at all  
19 reasonable times, to inspect all of the facilities, books and records  
20 of all of its member centers and to interview any agent or employee  
21 thereof or any person under its custody, control, direction, or  
22 supervision. Every member center shall afford the system reasonable  
23 opportunity for such inspections and interviews.

24 E. The State Board of Social Services and the Child Day-Care  
25 Council shall jointly promulgate regulations pursuant to the  
26 Administrative Process Act (§ 9-6.14:1 et seq.) to implement the  
27 provisions of this section. Such regulations shall address, but need  
28 not be limited to, the following:

- 1        1. Qualifications for child day center system licensure which  
2 shall include a requirement that the system operate, manage, or  
3 accredit as members of its system, fifty or more child day centers in  
4 the Commonwealth. The State Board of Social Services, the Child  
5 Day-Care Council, and the State Board of Education shall  
6 collaboratively establish a formal method to recognize entities  
7 accrediting child day centers. No entity may qualify for licensure as  
8 a child day center system on the basis that it accredits fifty or more  
9 centers, unless recognized pursuant to such method.
- 10       2. Financial stability, organization, policies, programs, and  
11 services of the system.
- 12       3. Delineation of responsibility for the handling of complaints  
13 regarding a member center's noncompliance with regulations for child  
14 day centers, joint involvement of the Commissioner and the system in  
15 the investigation, and full disclosure of complaints received by one  
16 party to the other.
- 17       4. Disclosure and other methods to reduce or avoid conflicts of  
18 interests in the relationships among the Commissioner, the system and  
19 member centers.
- 20       5. Training for staff in the performance of their duties  
21 pursuant to this section or regulations promulgated hereunder.
- 22       6. Required functions of a system which include:
- 23       a. Handling inquiries and applications from potential member  
24 centers;
- 25       b. Conducting a full inspection of each member center to  
26 determine compliance with regulations for child day centers before  
27 making a recommendation to the Commissioner concerning initial  
28 issuance or renewal of a license;

- 1        c. Conducting at least one inspection of each member center in  
2 each calendar year in which a full inspection for initial licensure or  
3 renewal of a license is not conducted to determine compliance with  
4 regulations for child day centers;
- 5        d. Ensuring correction of any member center's noncompliance with  
6 child day center regulations;
- 7        e. Handling of complaints involving a member center's  
8 noncompliance with the system's operational or accreditation  
9 standards;
- 10       f. Establishing an appeal process for member centers affected by  
11 the system's decisions; and
- 12       g. Making recommendations to the Commissioner regarding  
13 variances requested by member centers.
- 14       7. Duties of the Commissioner which shall include:
- 15       a. Ensuring compliance of each child day center system with  
16 applicable laws and regulations;
- 17       b. Acting on the system's recommendation for issuance or denial  
18 of member center licenses;
- 19       c. Revoking the license of any member center upon the  
20 recommendation of the system or upon the Department's findings;
- 21       d. Conducting at least one unannounced inspection of each member  
22 center each calendar year to ensure compliance with regulations for  
23 child day centers;
- 24       e. Acting on the system's recommendations regarding variances  
25 requested by member centers;
- 26       f. Investigating reports that systems or member centers are out  
27 of compliance with state law and regulations; and
- 28       g. Providing training and consultative services to child day

1 center systems regarding the system's application of child day center  
2 regulations.

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

5 § 63.1-196.03. Exemptions.--A. The provisions of subdivisions 4  
6 and 5 of § 63.1-196.02 shall not be required of any facility operated  
7 as a vacation school or summer camp pursuant to §§ 22.1-211 and  
8 22.1-212.

9 B. The provisions of § 63.1-196.02 shall not apply to vacation  
10 schools, day camps, or summer camps providing religious instruction  
11 operated under the sponsorship of a religious organization.

12 C. The provisions of § 63.1-196.02 shall not apply to any child  
13 day program licensed by the Commissioner.

14 § 63.1-196.04. Voluntary registration of family day homes;  
15 inspections; investigation upon receipt of complaint; revocation or  
16 suspension of registration.--A. Any-Until July 1, 1996, any person  
17 who maintains a ~~small-family-day-care~~-family day home as-defined-in-§-  
18 63-1-195-may-serving fewer than nine children, exclusive of the  
19 provider's own children and any children who reside in the home, may  
20 apply for voluntary registration. Effective July 1, 1996, any person  
21 who maintains a family day home serving fewer than six children,  
22 exclusive of the provider's own children and any children who reside  
23 in the home, may apply for voluntary registration. An applicant shall  
24 file with the Commissioner of Social Services, prior to beginning any  
25 such operation and thereafter biennially, a statement which shall  
26 include, but not be limited to, the following:

27 1. The name, address, phone number, and social security number  
28 of the person maintaining the ~~small-family-day-care~~-family day home;

- 1           2. The number and ages of the children to receive care;
- 2           3. A sworn statement or affirmation in which the applicant shall
- 3 attest to the accuracy of the information submitted to the
- 4 Commissioner for the purpose of voluntary registration as provided in
- 5 this section;
- 6           4. Documentation of a criminal history record or clearance from
- 7 the Central Criminal Records Exchange showing that criminal record
- 8 checks were conducted as provided in § 19.2-389 on the person
- 9 operating the home and any adults residing in the home and that no
- 10 information with respect to convictions for offenses specified in §
- 11 63.1-198.1 was obtained; and
- 12           5. Documentation that the home has met the self-administered
- 13 health and safety guidelines evaluation checklist required by the
- 14 State Board of Social Services.

15           Upon filing such information on ~~such-forms as-may-be-prescribed~~

16 by the Commissioner and after having satisfied the standards for

17 voluntary registration, the Commissioner of Social Services shall

18 issue a certificate of registration to the ~~small-family-day-care-~~

19 family day home.

20           B. The Commissioner of Social Services shall contract with

21 qualified local agencies and community organizations to certify ~~small-~~

22 family-day-care-family day homes as eligible for registration,

23 pursuant to the regulations of the State Board of Social Services. If

24 no qualified local agencies or community organizations are available,

25 the Commissioner shall implement the provisions of this section. Upon

26 receipt of an application of a qualified local agency or community

27 organization to certify ~~small-family-day-care-~~family day homes as

28 eligible for registration, the Commissioner shall cause an

1 investigation to be made of the applicant's activities, services,  
2 facilities, and financial responsibility, of the character and  
3 reputation of the officers and agents of the applicant, and of its  
4 compliance with standards and requirements which shall be established  
5 for the issuance of such contracts.

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

10 1. The identification of ~~small-family-day-care-~~family day homes  
11 which may meet the standards for voluntary registration provided in  
12 subsection A;

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

19 3. The establishment of standards and requirements for contracts  
20 to qualified local agencies and community organizations by the  
21 Commissioner ~~of-Social-Services-~~, upon review of the State Board of  
22 Social Services, for the certification of ~~small-family-day-care-~~  
23 family day homes as eligible for registration;

24 4. A requirement that the contract organization shall provide  
25 administrative services, including, but not limited to, processing  
26 applications for the voluntary registration of ~~small-family-day-care-~~  
27 family day homes, certifying such homes as eligible for registration,  
28 providing technical assistance, training and consultation with ~~small-~~

1 ~~family-day-care-family day~~ homes, and maintaining permanent records  
2 regarding all ~~small-family-day-care-family day~~ homes which it may  
3 certify as eligible for registration;

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

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

8 7. A schedule for charges to be made by the contract  
9 organization or by the Department if it implements the provisions of  
10 this section, for processing applications for the voluntary  
11 registration of ~~small-family-day-care-family day~~ homes. The charges  
12 collected shall be maintained for the purpose of recovering  
13 administrative costs incurred in processing applications and  
14 certifying as eligible or registering such homes.

15 D. The contract organization, upon determining that a ~~small-~~  
16 ~~family-day-care-family day~~ home has satisfied the standards for  
17 voluntary registration, shall certify the home as eligible for  
18 registration on such forms as may be prescribed by the Commissioner of  
19 ~~Social-Services-~~. The Commissioner, upon determining that  
20 certification has been properly issued, may register the ~~small-family-~~  
21 ~~day-care-family day~~ home.

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

28 F. Upon receipt of a complaint concerning a registered ~~small-~~



1 ~~family-day-care-family day~~ home as defined in § 63.1-195-, the  
2 Commissioner shall cause an investigation to be made, including on  
3 site visits as he deems necessary, of the activities, services, and  
4 facilities. The person who maintains such home shall afford the  
5 representatives of the Commissioner reasonable opportunity to inspect  
6 the operator's facilities and records and to interview any employees  
7 and any child or other person within his custody or control. Whenever  
8 a registered ~~small-family-day-care-family day~~ home is determined by  
9 the Commissioner to be in noncompliance with the standards for  
10 voluntary registration, the Commissioner shall give reasonable notice  
11 to the operator of the nature of the noncompliance and may thereafter  
12 revoke or suspend the registration.

13 § 63.1-196.3. Child day center operated by religious institution  
14 exempt from licensure; annual statement and documentary evidence  
15 required; enforcement; injunctive relief.--A. Notwithstanding any  
16 other provisions of this chapter, a ~~child-care-child day~~ center  
17 operated or conducted under the auspices of a religious institution  
18 shall be exempt from the licensure as required by § 63.1-196-  
19 requirements of this chapter, but shall comply with the provisions of  
20 this section unless it chooses to be licensed . Such-If such  
21 religious institution chooses not to be licensed, it shall file with  
22 the Commissioner of Social Services, prior to beginning any-such-  
23 operation of a child day center and thereafter annually, a statement  
24 of intent to operate a child-care-child day center, certification  
25 that the child-care-child day center has disclosed in writing to the  
26 parents or guardians of the children in the center the fact that it is  
27 exempt from licensure, the qualifications of the personnel employed  
28 therein and documentary evidence that:

1           1. Such religious institution has tax exempt status as a  
 2 nonprofit religious institution in accordance with § 501(c) of the  
 3 Internal Revenue Code of 1954, as amended, or that the real property  
 4 owned and exclusively occupied by the religious institution is exempt  
 5 from local taxation.

6           2. Within the prior ninety days for the initial exemption and  
 7 within the prior 180 days for exemptions thereafter, the local health  
 8 department and local fire marshal or Office of the State Fire Marshal  
 9 , whichever is appropriate, have inspected the physical facilities of  
 10 the ~~child-care~~child day center and have determined that the ~~facility-~~  
 11 center is in compliance with applicable laws and regulations with  
 12 regard to food service activities, health and sanitation, water  
 13 supply, building codes, and the Statewide Fire Prevention Code or the  
 14 Uniform Statewide Building Code.

15           3. The ~~child-care~~child day center employs supervisory  
 16 personnel according to the following ratio of adults to children:  
 17           a. One adult to four children from zero to twenty-four months.  
 18           b. One adult to ten children from ages twenty-four months to six  
 19 years.  
 20           c. One adult to twenty-five children ages six years and older.

21           4. Each person in a supervisory position shall-be-has been  
 22 certified by a practicing physician to be free from any disability  
 23 which would prevent him from caring for ~~such-children as-will-be-under~~  
 24 his supervision.

25           5. Written policies and procedures have been established to  
 26 ensure:

- 27           a. Compliance with the requirements of this section.  
 28           b. Compliance with the requirements of § 63.1-198.2 relating to

1 criminal history record checks for prospective employees and  
2 volunteers.

3 c. That suspected cases of child abuse and neglect are  
4 recognized by center staff and reported to local departments of social  
5 services.

6 d. Compliance with the requirements of Article 13 (§ 46.2-1095  
7 et seq.) of Chapter 10 of Title 46.2 regarding the use of child  
8 restraint devices, and with vehicle insurance requirements and state  
9 inspection requirements for vehicles used to transport children and  
10 that persons transporting children have valid driver's licenses.

11 4:--6. The following aspects of the child-care-child day  
12 center's operations are described in a written statement provided to  
13 the parents or guardians of the children in the center and made  
14 available to the general public: physical facilities, enrollment  
15 capacity, food services, health requirements for the staff and public  
16 liability insurance.

17 B. The center shall establish and implement procedures for:

18 1. Hand washing by staff and children before eating and after  
19 toileting and diapering.

20 2. Appropriate supervision of all children in care, including  
21 daily intake and dismissal procedures to ensure safety of children.

22 3. A daily simple health screening and exclusion of sick  
23 children by a person trained to perform such screenings.

24 4. Ensuring that a person trained and certified in first aid is  
25 present at the center and on field trips whenever children are  
26 present.

27 5. Ensuring that all children in the center are in compliance  
28 with the provisions of § 32.1-46 regarding the immunization of

LD6583753

1 children against certain diseases.

2 6. Ensuring that all areas of the premises accessible to  
3 children are free of obvious injury hazards, including providing and  
4 maintaining cushioning material under playground equipment.

5 C. The Commissioner or his representatives may perform on-site  
6 inspections of religious institutions prior to granting or renewing an  
7 exemption to confirm compliance with the provisions of this section  
8 and to investigate complaints that the religious institution is not in  
9 compliance with the provisions of this section. The Commissioner  
10 shall deny or revoke the exemption for any child day center in serious  
11 or persistent violation of the requirements of this section. If a  
12 religious institution operates a ~~child-care-child~~ day center and does  
13 not file the statement and documentary evidence required by subsection  
14 A-hereof,--this section, the Commissioner shall give reasonable  
15 notice to such religious institution of the nature of its  
16 noncompliance and may thereafter take such action as he determines  
17 appropriate, including a suit to enjoin the operation of the  
18 ~~child-care-child~~ day center.

19 E-D. Any ~~parent-or-guardian-of-a-child-in-a-child-care-center-~~  
20 person who has reason to believe that a ~~child-care-child~~ day center  
21 falling within the provisions of this section is not in compliance  
22 with the requirements of ~~subsection-A-of~~ this section may report the  
23 same to the State Department of Social Services, the local department  
24 of social services or welfare, the local health department or the  
25 local fire marshal, each of which may inspect the ~~child-care-child~~  
26 day center for noncompliance, give reasonable notice to the religious  
27 institution, and thereafter may take appropriate action as provided b  
28 law, including a suit to enjoin the operation of the ~~child-care-child~~

1 day center.

2 D-E. Nothing in this section shall prohibit a ~~child-care-~~  
3 child day center operated by or conducted under the auspices of a  
4 religious institution from obtaining a license pursuant to this  
5 chapter.

6 § 63.1-196.5. Application fees; regulations and schedules; use  
7 of fees; certain facilities exempt.--The State Board is authorized to  
8 establish regulations and schedules for fees to be charged for  
9 processing applications for licenses to operate child welfare  
10 agencies. Such schedules shall specify minimum and maximum fees and,  
11 where appropriate, gradations based on the capacity for children of  
12 the facility making application. ~~It-is-the-intent-of-the-General-~~  
13 ~~Assembly-that-such-~~Such fees shall be used for development and  
14 delivery of training for operators and staffs of child care-welfare  
15 agencies. These fees shall not be applicable to facilities operated by  
16 federal entities.

17 § 63.1-198. Investigation on receipt of application.--Upon  
18 receipt of the application, the Commissioner shall cause an  
19 investigation to be made of the applicant's activities, services,  
20 facilities, financial responsibility, and character and reputation or,  
21 if the applicant is an association, partnership or corporation, the  
22 character and reputation of its officers and agents. The character  
23 and reputation investigation shall include a criminal history records  
24 check, pursuant to § 19.2-389, of the applicant or the officers and  
25 agents of the applicant and any other adult living in the home of an  
26 applicant for licensure or registration as a family ~~day-care-day~~  
27 home. The applicant shall submit the request for a criminal history  
28 record check to the Central Criminal Records Exchange and shall

1 forward the original notification of criminal record clearance or  
2 original criminal history record to the Commissioner's representative  
3 prior to issuance of a license or approval of registration. All  
4 applicants for licensure or registration shall provide the  
5 Commissioner's representative with a sworn statement or affirmation  
6 disclosing whether the applicant, the applicant's officers or agents,  
7 or any other adult living in the home of an applicant for licensure or  
8 registration as a family day-care-day home has ever been convicted of  
9 or is the subject of pending charges for any offense specified in §  
10 63.1-198.1 within the Commonwealth or any equivalent offense outside  
11 the Commonwealth. The Commissioner shall not issue a license or  
12 registration to any child welfare agency if the applicant, the  
13 applicant's officers or agents, or any other adult living in the home  
14 of an applicant for licensure or registration as a family day-care-  
15 day home has been convicted of one of the crimes specified in §  
16 63.1-198.1. Any person making a materially false statement regarding  
17 any such offense shall be guilty of a Class 1 misdemeanor.

18 The applicant shall afford the representatives of the  
19 Commissioner required to make the investigation reasonable opportunity  
20 to inspect all of the applicant's facilities, books and records, and  
21 to interview ~~his-or-its~~ agents and employees and any child or other  
22 person within ~~his-or-its~~ custody or control.

23 § 63.1-198.01. Asbestos inspection required for child day  
24 centers.--After July 1, 1989, the Commissioner shall not issue a  
25 license to or renew the license of any ~~child-care-~~child day center  
26 which is located in a building built prior to 1978 until he receives a  
27 written statement that the building has been inspected for asbestos,  
28 as defined by § 2.1-526.12, in accordance with standards developed by

1 the Director of the Department of General Services pursuant to §  
2 2.1-526.14, by personnel competent to identify the presence of  
3 asbestos and that either (i) no asbestos was detected, (ii) asbestos  
4 was detected and response actions to abate any risk to human health  
5 have been completed, or (iii) asbestos was detected and response  
6 actions to abate any risk to human health have been or will be  
7 initiated in accordance with a specified schedule and plan approved by  
8 the Commissioner. The statement shall be signed by the person who  
9 inspected for the asbestos. Any inspection or response action  
10 required by this section shall be performed by competent personnel who  
11 have been licensed in accordance with the provisions of Chapter 5 (§  
12 54.1-500 et seq.) of Title 54.1.

13 All inspections and response actions required by this section  
14 shall be completed or a plan and schedule for response action shall be  
15 submitted for approval by the Commissioner by July 1, 1989. The  
16 provisions of this section shall not apply to ~~child-care~~child day  
17 centers located in buildings required to be inspected pursuant to  
18 Article 5.2 (§ 2.1-526.12 et seq.) of Chapter 32 of Title 2.1.

19 § 63.1-198.03. Establishment of hot line for child care  
20 complaints; investigation on receipt of complaints.--With such funds  
21 as are appropriated for this purpose, the Commissioner shall establish  
22 a hot line to respond to complaints regarding child care operations.  
23 Upon receipt of a complaint concerning a child care operation,  
24 regardless of whether the program is subject to licensure, the  
25 Commissioner shall cause an investigation to be made, including  
26 on-site visits as he deems necessary, of the activities, services,  
27 records and facilities. The child care operation shall afford the  
28 Commissioner or his representatives reasonable opportunity to inspect

1 all of the operator's activities, services, records and facilities an  
 2 to interview its agents and employees and any child or other person  
 3 within its custody or control. Whenever a child care operation  
 4 subject to inspection under this section is determined by the  
 5 Commissioner to be in noncompliance with the provisions of this  
 6 chapter or with applicable regulations promulgated pursuant to this  
 7 chapter, the Commissioner shall give reasonable notice to the child  
 8 care operation of the nature of its noncompliance and may thereafter  
 9 take appropriate action as provided by law, including a suit to enjoin  
 10 the operation of the child care operation.

11 § 63.1-198.1. Employment for compensation of persons or use of  
 12 volunteers convicted of certain offenses prohibited; criminal records  
 13 check required; suspension or revocation of license.--On or after July  
 14 1, 1992, a ~~child-caring-institution, child-care-center, child-placing-~~  
 15 ~~agency, independent-foster-home, family-day-care-home-or-family-~~  
 16 ~~day-care-system-~~child welfare agency licensed or registered in  
 17 accordance with the provisions of this chapter shall not hire for  
 18 compensated or voluntary employment nor shall private child-placing  
 19 agencies approve as foster or adoptive parents or family ~~day-care-day~~  
 20 systems approve as caretakers persons who have been convicted of  
 21 murder, abduction for immoral purposes as set out in § 18.2-48, sexual  
 22 assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of  
 23 Title 18.2, pandering as set out in § 18.2-355, crimes against nature  
 24 involving children as set out in § 18.2-361, taking indecent liberties  
 25 with children as set out in § 18.2-370 or § 18.2-370.1, abuse and  
 26 neglect of children as set out in § 18.2-371.1 , including failing to  
 27 secure medical attention for an injured child ~~or~~ obscenity offenses  
 28 as set out in § 18.2-374.1 , or abuse and neglect of incapacitated



1 adults as set out in § 18.2-369 or convicted under § 18.2-379.

2 Any person desiring to work or volunteer at a child welfare  
3 agency or desiring to be a foster or adoptive parent with a private  
4 child-placing agency or desiring to be a family day-care-day home  
5 provider approved by a family day-care-day system shall provide the  
6 hiring or approving facility or agency with a sworn statement or  
7 affirmation disclosing whether or not the applicant has ever been  
8 convicted of or is the subject of pending charges for any offense  
9 specified in this section within the Commonwealth or any equivalent  
10 offense outside the Commonwealth. Further dissemination of the  
11 information provided is prohibited other than to the Commissioner's  
12 representative or a federal or state authority or court as may be  
13 required to comply with an express requirement of law for such further  
14 dissemination. Any person making a materially false statement  
15 regarding any such offense shall be guilty of a Class 1 misdemeanor.

16 A child welfare agency shall obtain for any compensated employees  
17 and any volunteers within twenty-one days of employment or  
18 commencement of volunteer service, an original criminal record  
19 clearance with respect to convictions for offenses specified in this  
20 section or an original criminal history record from the Central  
21 Criminal Records Exchange. Prior to the approval of the applicant,  
22 licensed private child-placing agencies and family day-care-day  
23 systems shall obtain a criminal record clearance with respect to  
24 convictions for offenses specified in this section or an original  
25 criminal history record from the Central Criminal Records Exchange for  
26 all persons applying to be foster or adoptive parents or family  
27 day-care-day home providers and any other adult living in the home of  
28 the family day-care-day home provider. Failure to obtain a criminal

1 record clearance or criminal history record from the Central Criminal  
2 Records Exchange for each employee, volunteer, foster or adoptive  
3 parent, family day-care-day home provider and any other adult living  
4 in the home of the family day-care-day home provider and the  
5 disclosure statement required by this section shall be grounds for  
6 denial, suspension or revocation of a license or registration pursuan  
7 to this chapter. If an applicant is denied employment or approval  
8 because of convictions appearing on his criminal history record, the  
9 child welfare agency shall provide a copy of the information obtained  
10 from the Central Criminal Records Exchange to the applicant.

11 The provisions of this section referring to volunteers shall  
12 apply only to volunteers who will be alone with any child in the  
13 performance of their duties ~~---The-provisions-of-this-section-and~~  
14 shall not apply to a parent-volunteer of a child attending such  
15 licensed or registered facility whether or not such parent-volunteer  
16 will be alone with any child in the performance of his duties. A  
17 parent-volunteer is someone supervising, without pay, a group of  
18 children which includes the parent-volunteer's own child in a program  
19 of care which operates no more than four hours per day, provided that  
20 the parent-volunteer works under the direct supervision of a person  
21 who has received a clearance pursuant to this section.

22 The provisions of this section shall not apply to local boards of  
23 public welfare or social services which place children in foster or  
24 adoptive homes pursuant to § 63.1-56.

25 § 63.1-198.2. Records check by unlicensed center.--Any facility-  
26 providing-child-care-services-child day center which is exempt from  
27 the-licensing-requirements-under-licensure pursuant to § 63.1-196.3  
28 of-this-chapter-may-shall require a prospective employee or volunteer

1 or any other person officially involved in the operations of the  
2 facility in which the center is located to first obtain a criminal  
3 records check as provided in subdivision A 11 of § 19.2-389 and may-  
4 shall refuse employment or work to any person who has been convicted  
5 of any offense specified in § 63.1-198.1. Such facility shall also  
6 require a prospective employee to provide a sworn statement or  
7 affirmation disclosing whether or not the applicant has ever been  
8 convicted of or is the subject of pending charges for any offense  
9 specified in this section within the Commonwealth or any equivalent  
10 offense outside the Commonwealth. Any person making a materially  
11 false statement regarding any such offense shall be guilty of a Class  
12 1 misdemeanor. If an applicant is denied employment because of  
13 convictions appearing on his criminal history record, the facility  
14 shall provide a copy of the information obtained from the Central  
15 Criminal Records Exchange to the applicant. Further dissemination of  
16 the information provided to the facility is prohibited.

17 The provisions of this section referring to volunteers shall  
18 apply only to volunteers who will be alone with any child in the  
19 performance of their duties and shall not apply to a parent-volunteer  
20 of a child attending the child day center whether or not such  
21 parent-volunteer will be alone with any child in the performance of  
22 his duties. A parent-volunteer is someone supervising, without pay, a  
23 group of children which includes the parent-volunteer's own child, in  
24 a program which operates no more than four hours per day, where the  
25 parent-volunteer works under the direct supervision of a person who  
26 has received a clearance pursuant to this section.

27 § 63.1-199. Issuance or refusal of license; notification.--Upon  
28 completion of such investigation, the Commissioner shall issue an

1 appropriate license to the applicant if (i) the applicant has made  
 2 adequate provision for such activities, services and facilities as are  
 3 reasonably conducive to the welfare of the children over whom he may  
 4 have custody or control, (ii) his-the applicant has submitted  
 5 satisfactory documentation of financial responsibility is-such as to-  
 6 give-reasonable-assurance-of-the-continued-maintenance-of-such-  
 7 activities,-services-and-facilities-, but not limited to, a letter of  
 8 credit, a certified financial statement, or similar documents, and  
 9 (iii) he, or the officers and agents of the applicant if it is an  
 10 association, partnership or corporation, is ~~or-are~~ of good character  
 11 and reputation. Otherwise, the license shall be refused-denied. A  
 12 license shall not be granted to any applicant who has been convicted  
 13 of any offense specified in § 63.1-198.1. If an applicant is denied  
 14 licensure because of convictions appearing on his criminal history  
 15 record, the Commissioner shall provide a copy of the information  
 16 obtained from the Central Criminal Records Exchange to the applicant.  
 17 Immediately upon ~~his~~-taking final action, the Commissioner shall  
 18 notify the applicant of such action.

19 § 63.1-201.1. Misleading advertising prohibited.--No child  
 20 welfare agency shall make, publish, disseminate, circulate, or place  
 21 before the public or cause, directly or indirectly, to be made,  
 22 published, disseminated, circulated or placed before the public in  
 23 this Commonwealth, in a newspaper or other publication; in the form of  
 24 a book, notice, handbill, poster, blueprint, map, bill, tag, label,  
 25 circular, pamphlet, or letter; or in any other way an advertisement of  
 26 any sort regarding services or anything so offered to the public,  
 27 which advertisement contains any promise, assertion, representation or  
 28 statement of fact which is untrue, deceptive or misleading.

1 § 63.1-202. State Board or Child Day-Care Council to promulgate  
2 regulations.--The State Board and, or in the case of ~~child-care-~~  
3 ~~centers,~~ child day centers, the Child Day-Care Council shall  
4 ~~prescribe-general-standards-and-policies-~~promulgate regulations for  
5 the activities, services and facilities to be employed by persons and  
6 agencies required to be licensed under this chapter, which ~~standards-~~  
7 shall be designed to ensure that such activities, services and  
8 facilities are conducive to the welfare of the children under the  
9 custody or control of such persons or agencies.

10 Such ~~standards-may-~~regulations shall be developed in  
11 consultation with representatives of the affected entities and shall  
12 include, but need not be limited to, matters relating to the sex, age,  
13 and number of children and other persons to be maintained, cared for,  
14 or placed out, as the case may be, and to the buildings and premises  
15 to be used, and reasonable standards for the activities, services and  
16 facilities to be employed. Such limitations and standards shall be  
17 specified in each license and renewal thereof.

18 § 63.1-202.1. Child Day-Care Council created; members; terms;  
19 duties.--The Child Day-Care Council is hereby created. Its members  
20 shall be appointed by the Governor and serve without compensation. The  
21 members of the Council shall consist of two nonprofit ~~child-care-~~  
22 ~~center-~~child day center operators; three private for-profit  
23 ~~child-care-center-~~child day center operators; one representative from  
24 each of the Departments of Social Services, Health, Education, Fire  
25 Programs, and Housing and Community Development; one pediatric health  
26 professional; one child development specialist; one parent consumer;  
27 one legal professional; one representative of the Virginia Council on-  
28 for Private Education; and one representative each of a child day-care

1 ~~camp, a private nursery or preschool which offers a half-day program-~~  
 2 day center offering a seasonal program emphasizing outdoor activities  
 3 a private child day center offering a half-day nursery school program  
 4 , and a local governing body all of which operate ~~child-care programs~~  
 5 required to be licensed under this chapter . The membership of the  
 6 Council shall also include such representatives of state agencies as  
 7 advisory members as the Governor deems necessary. The Governor shall  
 8 designate a member of the Council to serve as chairman.

9 The members of the Council shall be appointed for four-year  
 10 terms, except appointments to fill vacancies shall be for the  
 11 unexpired term.

12 The Council shall ~~formulate standards and promulgate~~ regulations  
 13 for licensure and operation of ~~child-care centers, child-day-care-~~  
 14 ~~amps, preschools and nursery schools~~ child day centers in the  
 15 Commonwealth in accordance with the standards-regulations referred to  
 16 in § 63.1-202. ~~Such standards and regulations shall include-~~  
 17 ~~provisions for appeal of licensure decisions and for enforcement of-~~  
 18 ~~licensure provisions.--~~

19 ~~The Council, in consultation with the Board of Education, shall-~~  
 20 ~~promulgate standards and regulations for the licensure of-~~  
 21 ~~before-school and after-school day-care programs.--~~

22 All staff and other support services required by the Council  
 23 shall be provided by the Department of Social Services.

24 § 63.1-210.1. Visitation by parents or guardians in child day  
 25 programs.--A custodial parent or guardian shall be admitted ~~at to~~ any  
 26 ~~child-care center, home or facility~~ child day program . For purposes  
 27 of this section, "~~child-care center, home or facility~~" is one which-  
 28 provides care, protection and guidance to the child while the child is

1 ~~separated-from-the-parent-or-guardian-during-a-part-of-the-day-only-~~  
2 "child day program" is one in which a person or organization has  
3 agreed to assume responsibility for the supervision, protection, and  
4 well-being of a child under the age of thirteen for less than a  
5 twenty-four-hour period , ~~irrespective-regardless~~ of whether it is  
6 licensed. Such right of admission shall apply only while the child is  
7 in the ~~child-care-center, home-or-facility~~ child day program .

8 § 63.1-211.2. Public funds to be withheld for serious or  
9 persistent violations.--The State Board of Social Services, the State  
10 Board of Education, and the Virginia Council on Child Day Care and  
11 Early Childhood Programs may adopt policies, as permitted by state and  
12 federal law, to restrict the eligibility of a licensed child welfare  
13 agency to receive or continue to receive funds when such agency is  
14 found to be in serious or persistent violation of regulations.

15 § 63.1-211.3. Sanctions for licensed facilities.--A. The  
16 Commissioner may take the following actions regarding licensed child  
17 welfare agencies:

18 1. Place a licensed child welfare agency on probation upon  
19 finding that the licensee is substantially out of compliance with the  
20 terms of its license and the health and safety of children are at  
21 risk.

22 2. Reduce licensed capacity or prohibit new admissions when the  
23 Commissioner concludes that the agency cannot make necessary  
24 corrections to achieve compliance with regulations except by a  
25 temporary restriction of its scope of service.

26 3. Require that probationary status announcements, provisional  
27 licenses, and denial or revocation notices be posted in a prominent  
28 place at each public entrance of the licensed premises and be of

1 sufficient size and distinction to advise consumers of serious or  
2 persistent violations.

3 4. Mandate training for the licensee or licensee's employees,  
4 with any costs to be borne by the licensee, when the Commissioner  
5 concludes that the lack of such training has led directly to  
6 violations of regulations.

7 B. The State Board of Social Services shall promulgate  
8 regulations to implement the provisions of this section.

9 2. That Chapter 801, as amended, of the Acts of Assembly of 1990 is  
10 repealed.

11

#



Minority Report I

ACCREDITED PRIVATE SCHOOLS

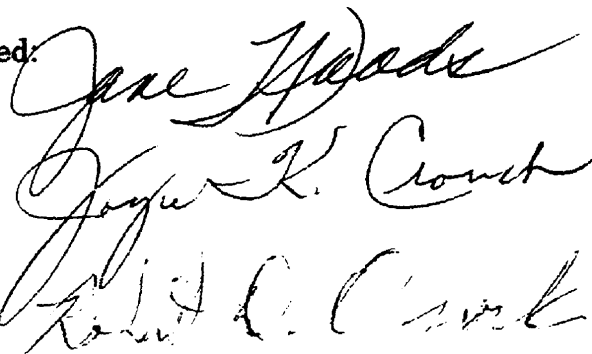
The proposed legislation implementing the recommendations of the Commission will substantially increase the protection extended to children in day care settings. We support such initiatives, believing that increased assurances of the health and safety of children in day care is merited given the importance of day care to working families in the Commonwealth. However, our support for the broad goals of the bill does not mean that we believe that the proposed legislation seeks to meet these goals in the most efficient and appropriate manner.

In our judgment, the proposed legislation should have incorporated the provisions of Delegate James Dillard's HB 1026 Substitute concerning programs operated by accredited private schools. This approach would recognize that alternatives to licensure and direct state regulation are appropriate where other reasonable means of providing assurances of the health and safety of children are present.

HB 1026 Substitute calls for accredited private schools for the first time to provide information to the state on their programs for children below the age of mandatory school attendance through a certification program. The expense and responsibility for ensuring the health and safety of the children in their care would be borne by the schools, their accrediting bodies and by the parents of the students, not by the Commonwealth. Given the exemplary record of these schools in providing a safe and healthful environment for their students, this type of public-private partnership balances the degree of risk to children against increased expense in a better way than licensure, as proposed.

This Commission heard and discussed the subject of "risk based assessment" at length during these proceedings but ultimately rejected using the process to tailor the amount of regulation to the degree of risk to children presented by the different settings. Accredited private schools are one setting where we are certain that a lower level of scrutiny by the Commonwealth is merited because of the additional provisions of HB 1026. The dollars saved by adopting HB 1026 may be applied to increased scrutiny of settings where the degree of risk presented to children is higher; the net effect is better protection for Virginia's children. For these reasons, we respectfully dissent from that part of the Commission's report which rejects the HB 1026 approach to accredited private schools.

Signed:



The image shows three handwritten signatures in cursive script, stacked vertically. The top signature appears to be 'Jane H. ...', the middle one 'James L. ...', and the bottom one 'Robert L. ...'. The ink is dark and the handwriting is fluid.

## Minority Report II

## GOVERNMENT SPONSORED RECREATION PROGRAMS

The proposed legislation implementing the recommendations of the Commission will substantially increase the protection extended to children in day care settings. We support generally such initiatives believing that increased assurances of the health and safety of children in day care is merited given the importance of day care to working families in the Commonwealth. However, our support for the broad goals of the bill does not mean that we believe that the proposed legislation seeks to meet these goals in the most efficient and appropriate manner.

The proposed legislation implementing the recommendations of the Commission will substantially increase protection to Virginia's youngsters in child care settings. This is consistent with the original intent of HB 1035 - to afford protection in long term care settings especially in areas in which there is no oversight. A distinction should be made between the need to license child care programs for short term recreational development run by local governments and those for longer term child care. Experience does not reflect a problem in the local government programs.

It is also a departure from what has been a safe, successful policy - that state government would require licensing of programs operated with all local funds. This is the case with many local government parks and recreation programs.

We respectfully dissent from that position of the Commission's report which requires all government run recreation programs to be licensed.

Signed: *I believe the bill SB 777 has now been amended to address these concerns. Jane Hoad*

*2/11/93 - If the bills as amended successfully address these concerns, this statement may be considered obsolete.*

*Joyce Couch*

*2/11/93 - With the language changes now in the respective bills, the concern has been addressed.*

*Robert D. Crowl*

## Minority Report III

## FAMILY DAY CARE

The proposed legislation implementing the recommendations of the Commission will substantially increase the protection extended to children in day care settings. We support such initiatives believing that increased assurances of the health and safety of children in day care is merited given the importance of day care to working families in the Commonwealth. However, our support for the broad goals of the bill does not mean that we believe that the proposed legislation seeks to meet these goals in the most efficient and appropriate manner.

In our judgment, in regard to the issue of family day care homes, the report makes no distinction in thresholds of licensure between those family day care providers that serve children primarily before and after school and those that serve children all day long. It is our feeling that different criteria for licensure should be considered for before and after school day care settings due to a different level of risk for family day care homes.

An additional issue of concern, is the ratio numbers of children to adult providers. While this is addressed in specific fashion in religious exemptions and in a different section of the Code in reference to child day centers, the report establishes no specific ratio numbers for family day home settings. Those numbers, currently proposed by regulation, are much more restrictive.

There were two primary objectives of the Commission on Early Childhood and Child Care Programs and that being insuring affordable and available safe child care. The issue of family day care homes serves a very large percentage of the existing unregulated day care environment. While all on the Commission are concerned about the safety and well being of all children, we feel that undue regulation on the family day care home setting would result in an increased number of children in unsupervised latch key situations.

While we embrace the concept and appreciate the efforts of all on the Commission, we feel there are still some issues involving family day settings which are unresolved and therefore respectfully offer this dissenting opinion on the report as presented.

Signed:

*2/11/93 I believe most objections have been covered in the 1993 legislative proposal.*

*Joyce Clark*

*2/11/93 All issues raised in the above statement have been at least partially addressed, except for ratio numbers. I dissent on this issue. Robert H. Clark*

Minority Report IV  
RELIGIOUS EXEMPTION

With appreciation to all parties involved, we agree with the intent of the Commission and the general statements set forth in the proposals to assure the Commonwealth, the public and the parents/guardians that health and safety practices are an integral part of religiously exempt child day care programs and facilities. We believe, however, that the protection of Virginia's children in religiously exempt child care settings is covered in House Bill 1035 and we encourage implementation of those portions of that statute as approved by the 1992 General Assembly.

To adopt specific regulations as proposed in Recommendation III and IV of the draft proposals and expanded further in draft legislation Section 63.1-196.3, subsection 5 and subsection 6-B, is tantamount to "codifying" regulations and license procedures for facilities "exempt" from licensure. Further, those items specified in Section 5 of draft legislation are already required in other sections of the Code.

Without further point-by-fact rebuttal, we respectfully request retention of the religious exemption provisions of HB 1035, debated extensively and agreed to be all parties at the time of passage.

Signed:

*Joyce Couch*  
*Robert D. Couch*

Minority Report V  
GOVERNMENT PROGRAMS

Senator Frank W. Nolen declined to approve the Commission's report or proposed legislation and offered the attached substitute bill as a minority report.

LD7250721

1 D 1/18/93 Bolecek T 1/19/93 jds

2 SENATE BILL NO. 344  
3 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
4 (Proposed by the Senate/House Committee on/for .....  
5 on .....)  
6 (Patron Prior to Substitute--.....)

7 A BILL to amend and reenact § 63.1-196 of the Code of Virginia, as it  
8 wil become effective on July 1, 1994, relating to licensure of  
9 child care centers.

10

11 Be it enacted by the General Assembly of Virginia:

12 1. That § 63.1-196 of the Code of Virginia, as it will become  
13 effective on July 1, 1994, is amended and reenacted as follows:

14 § 63.1-196. (Effective July 1, 1994) Licenses required; posting  
15 of licenses; deceptive or misleading advertising.--A. Every person not  
16 an officer, employee or agent of the Commonwealth, county, town or  
17 city acting within the scope of his authority as such, who serves as  
18 or maintains a child-caring institution, an independent foster home,  
19 child-care center, family day-care system, nursery school or  
20 preschool, before or after school day-care program, child day-care  
21 camp, or a group family day-care home shall obtain an appropriate  
22 license from the Commissioner.

23 Group family day-care homes which are members of a licensed  
24 family day-care system are not required to obtain a license from the  
25 Commissioner. Every person not an officer, employee, or agent of the  
26 Commonwealth, county, town, or city acting within the scope of his

1 authority as such, who serves as or maintains a child-placing agency,  
2 shall obtain an appropriate license from the Commissioner.

3 B. The Commissioner shall provide for the issuance of nine  
4 categories of licenses, namely, (i) child-placing agency licenses,  
5 (ii) child-caring institution licenses, (iii) independent foster home  
6 licenses, (iv) child-care center licenses, (v) group family day-care  
7 home licenses, (vi) family day-care system licenses, (vii) preschool  
8 and nursery school licenses, (viii) before and after school day-care  
9 program licenses, pursuant to § 63.1-202.1, and (ix) child day-care  
10 camp licenses. Any two or more such licenses may be issued for  
11 concurrent operation to the same person but each license shall be  
12 issued upon a separate form. Licenses issued under this chapter may be  
13 issued for periods of up to three successive years from the date of  
14 issuance, unless sooner revoked or surrendered.

15 C. The Commissioner's license and other documents issued  
16 following any other required inspections shall be posted in a  
17 conspicuous place on the licensed premises.

18 D. No child-welfare agency licensed under this chapter shall  
19 make, publish, disseminate, circulate, or place before the public, or  
20 cause, directly or indirectly, to be made, published, disseminated,  
21 circulated or placed before the public in this Commonwealth, in a  
22 newspaper or other publication, or in the form of a book, notice,  
23 handbill, poster, blueprint, map, bill, tag, label, circular,  
24 pamphlet, or letter, or in any other way an advertisement of any sort  
25 regarding services or anything so offered to the public, which  
26 advertisement contains any promise, assertion, representation or  
27 statement of fact which is untrue, deceptive or misleading.