



COMMONWEALTH of VIRGINIA  
DEPARTMENT OF SOCIAL SERVICES  
*Office of the Commissioner*

Margaret Ross Schultze  
COMMISSIONER

November 1, 2015

**MEMORANDUM**

**TO:** The Honorable Terence R. McAuliffe  
Governor of Virginia

The Honorable Chris Jones, Chairman  
House Appropriations Committee

The Honorable Water Stosch, Co-Chairman  
Senate Finance Committee

The Honorable Charles Colgan, Co-Chairman  
Senate Finance Committee

Daniel Timberlake, Director  
Department of Planning & Budget

**FROM:** Margaret Ross Schultze

A handwritten signature in black ink, appearing to read "Margaret Ross Schultze".

**SUBJECT:** Report on Implementation of 2015 Child Care Legislation

I am pleased to submit the Department of Social Services' first quarterly report on implementation of House Bill 1570 and Senate Bill 1168, passed in 2015. The report was prepared pursuant to Item 342 (E) of the 2015 Appropriation Act. If you have questions or need additional information concerning the report, please contact me.

MRS:kc

Attachment

## Quarterly Report on the Implementation of House Bill 1570 and Senate Bill 1168

July 1, 2015 – September 30, 2015

### Report Mandate

The Department of Social Services shall provide a quarterly report on the implementation of House Bill 1570 / Senate Bill 1168 to the Director, Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees.

### Background

House Bill 1570 and Senate Bill 1168 was a combination omnibus bill addressing multiple issues regarding child care health and safety. There are multiple requirements with varying implementation dates. Below is a description of the Department of Social Services' (DSS) implementation efforts this quarter.

Section 63.2-100 of the Code changes the licensing threshold for family day homes, requiring licensure when there are five children in care, effective July 1, 2016. A corresponding change was made in § 63.2-1704 of the Code, allowing a family day home provider to be voluntarily registered when caring for four or fewer children, effective July 1, 2016. DSS has notified licensing staff of these changes, and has also notified current and prospective voluntary registered family day homes of the July 1, 2016 threshold reduction.

Section 63.2-1701.1 of the Code of Virginia (Code) requires local government to report to DSS semiannually contact information for child care business licenses for child day centers or family day homes. On June 30, 2015, a memo titled *New Code Requirement to Report Child Care Business Licenses* was sent to local government commissioners of revenue describing this new requirement and asking for the first report to be submitted to DSS on January 1, 2016. Additionally, DSS has been determining procedures to collect, store, and analyze this data once the reports are submitted.

Section 63.2-1704.1 of the Code requires unlicensed and unregistered family day home providers to give written notice to parents of children in care indicating that the home is not regulated by DSS and referring parents to the DSS website for information regarding licensed, registered, and unlicensed, unregistered family day homes. On June 30, 2015, DSS sent a memo titled *New Code Requirement to Provide Written Notice to Parents* to child care constituents throughout the Commonwealth requesting that they assist DSS in notifying unlicensed and unregistered family day home providers of these new requirements. Additionally, DSS posted information about this new requirement on the child day care webpage, <http://www.dss.virginia.gov/family/cc/index.cgi> and revised this webpage to more clearly reflect different types of licensed, regulated, unlicensed, and unregulated child care.

Sections 63.2-1720.1 and 63.2-1721.1 of the Code were added and require national fingerprint background checks for licensed child day centers and licensed family day homes, effective July

1, 2017. An internal licensing workgroup has been meeting since May 2015 to research and determine implementation and timelines for the fingerprint checks. Workgroup members have met with staff from Virginia State Police to discuss the changes needed. The DSS Office of Background Investigations has been researching system requirement changes that will be needed and has been developing a plan to implement these changes.

Revisions made to § 63.2-1725 of the Code added a requirement that child day centers and family day homes that enter into a contract with DSS to provide child care services (subsidy child care providers) shall comply with federal law and regulations. The federal Child Care and Development Block Grant Act of 2014, signed into law in November 2014, introduced new requirements for states. Numerous activities are underway to develop and implement strategies in response to the federal law, including:

- Workgroups are addressing numerous areas, including health and safety standards and inspection procedures for unlicensed subsidy providers, training requirements, and development of a statewide child care disaster plan.
- Guidance revisions to the state Child Care Subsidy Program are underway to reflect federal requirements. Most new requirements for the Child Care Subsidy Program will require a revision to the Program's state regulation. The Program plans to submit a Notice of Intended Regulatory Action for the new regulation to the State Board of Social Services in December 2015.
- Identification of requirements and estimated costs of automated system changes associated with the federal requirements is underway.

Revisions made to § 63.2-1727 of the Code added a requirement that it is unlawful for a person to operate a family day home if the provider, household member, or employee of the family day home has been convicted of any offense that requires registration on the Sex Offender and Crimes Against Minors Registry. This requirement conveys to all family day homes, licensed, registered, approved, as well as unlicensed, and homes that are not registered, approved or regulated. In August, 2015, after the Department received a revised barrier crimes list from The Office of the Attorney General, a memo titled, *Legislative Implementation 2015- Family Day Home Background Requirements and New Barrier Crimes List for Child Day Programs* was sent to licensing staff, licensed family day homes, voluntarily registered family day homes, and the licensed family day system advising providers of the new requirements and revised barrier crimes lists. Revised barrier crime lists were posted on the DSS websites for these programs. DSS also sent notice about these new barrier crime requirements to family day home stakeholder constituents and community partners, asking for assistance in notifying providers not known to DSS.

Enactment Clause 5 requires DSS to develop recommendations regarding civil and criminal penalties for individuals who operate a child day center or family day home subject to licensure without obtaining the appropriate DSS license, or centers or homes that serve more children than the license allows. A report to the Governor and General Assembly is due December 1, 2015. In May, 2015, an internal penalty committee was convened to begin research, data collection, and planning in preparation for developing recommendations for this report. In August 2015, a

workgroup meeting with stakeholders was held to receive input and discuss recommendations. Guidance has been requested from the Office of the Attorney General regarding questions that were posed at the stakeholder workgroup meeting.

Enactment Clause 6 requires DSS to report on requirements in the Child Care and Development Block Grant to the Chairman of the Senate Committee on Rehabilitation and Social Services and the House Committee on Health, Welfare, and Institutions by Dec 1, 2015. The Division of Child Care and Early Childhood Development drafted the mandated report on requirements of the Child Care and Development Block Grant Act of 2014. It is currently under internal review for submission to the General Assembly by December 1, 2015.

Enactment Clause 7 requires DSS to work with local governments authorized under § 15.2-914 to regulate and license family day homes to identify and address any differences between local ordinances and state licensing regulations for family day homes. DSS has researched local ordinance requirements and compared these requirements to state regulations for licensed family day homes. The DSS Office of the Commissioner met with local government representatives in June, 2015 to discuss child care requirements. Further research and discussion with the localities is planned for the next quarter.

### **Conclusion**

DSS continues to work on implementation for House Bill 1570/Senate Bill 1168. DSS will submit the final report of penalty recommendations to the Governor and the General Assembly by December 1, 2015. DSS will also submit the report on requirements of the Child Care and Development Block Grant Act of 2014 to the General Assembly by December 1, 2015.