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**HOUSE BILL NO. 1786**

Offered January 13, 2025

Prefiled January 6, 2025

A *BILL to amend and reenact § 22.1-289.031 of the Code of Virginia, relating to child day centers operated by religious institutions; exemption from licensure; conditions.*

Patron—Orrock

Referred to Committee on Education

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

**1. That § 22.1-289.031 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-289.031. Child day center operated by religious institution exempt from licensure; annual statement and documentary evidence permitted.**

A. Notwithstanding any other provisions of this chapter, a child day center, ~~including a child day center~~ operated or conducted under the auspices of a religious institution, shall be exempt from the licensure requirements of this chapter, but ~~shall comply with the provisions of this section unless it chooses~~ *may (i) choose* to be licensed. ~~If such religious institution chooses not to be licensed, it shall~~ *or (ii) file* with the Superintendent, prior to beginning operation of a child day center and thereafter annually, a statement of intent to operate a child day center, certification that the child day center has disclosed in writing to the parents or guardians of the children in the center the fact that it is exempt from licensure and has posted the fact that it is exempt from licensure in a visible location on the premises, the qualifications of the personnel employed therein, and documentary evidence that:

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

2. Within the prior 90 days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center and have determined that the center is in compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code.

3. The child day center employs supervisory personnel according to the following ratio of staff to children:

- a. One staff member to four children from ages zero to 16 months.
- b. One staff member to five children from ages 16 months to 24 months.
- c. One staff member to eight children from ages 24 months to 36 months.
- d. One staff member to 10 children from ages 36 months to five years.
- e. One staff member to 20 children from ages five years to nine years.
- f. One staff member to 25 children from ages nine years to 12 years.

Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children. When a group of children receiving care includes children from different age brackets, the age of the youngest child in the group shall be used to determine the staff-to-children ratio that applies to that group. For each group of children receiving care, at least one adult staff member shall be regularly present. However, during designated daily rest periods and designated sleep periods of evening and overnight care programs, for children ages 16 months to six years, only one staff member shall be required to be present with the children under supervision. In such cases, at least one staff member shall be physically present in the same space as the children under supervision at all times. Other staff members counted for purposes of the staff-to-child ratio need not be physically present in the same space as the resting or sleeping children, but shall be present on the same floor as the resting or sleeping children and shall have no barrier to their immediate access to the resting or sleeping children. The staff member who is physically present in the same space as the sleeping children shall be able to summon additional staff counted in the staff-to-child ratio without leaving the space in which the resting or sleeping children are located.

Staff members shall be at least 16 years of age. Staff members under 18 years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under 18 years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician or physician assistant to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

- 59 a. This section.
- 60 b. Section 22.1-289.039 relating to background checks.
- 61 c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.
- 62 d. Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial  
63 driver's license; Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections;  
64 ensuring that any vehicle used to transport children is an insured motor vehicle as defined in § 46.2-705; and  
65 Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.
- 66 6. The following aspects of the child day center's operations are described in a written statement provided  
67 to the parents or guardians of the children in the center and made available to the general public: physical  
68 facilities, enrollment capacity, food services, health requirements for the staff, and public liability insurance.
- 69 7. The individual seeking to operate the child day center is not currently ineligible to operate another child  
70 day program due to a suspension or revocation of his license or license exemption for reasons involving child  
71 safety or any criminal conviction, including fraud, related to such child day program.
- 72 8. A person trained and certified in first aid and cardiopulmonary resuscitation (CPR) will be present at  
73 the child day center whenever children are present or at any other location in which children attending the  
74 child day center are present.
- 75 9. The child day center is in compliance with all safe sleep guidelines recommended by the American  
76 Academy of Pediatrics.
- 77 B. ~~The center shall~~ *Child day centers that are subject to the provisions of subsection A may establish and*  
78 *implement procedures for:*
- 79 1. Hand washing by staff and children before eating and after toileting and diapering.
- 80 2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to  
81 ensure safety of children.
- 82 3. A daily simple health screening and exclusion of sick children by a person trained to perform such  
83 screenings.
- 84 4. Ensuring that all children in the center are in compliance with the provisions of § 32.1-46 regarding the  
85 immunization of children against certain diseases.
- 86 5. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards,  
87 including providing and maintaining sand or other cushioning material under playground equipment.
- 88 6. Ensuring that all staff are able to recognize the signs of child abuse and neglect.
- 89 7. Ensuring that all incidents involving serious physical injury to or death of children attending the child  
90 day center are reported to the Superintendent. Reports of serious physical injuries, which shall include any  
91 physical injuries that require an emergency referral to an offsite health care professional or treatment in a  
92 hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after  
93 the death occurred.
- 94 C. The Superintendent may perform on-site inspections of *any exempt child day center operated by a*  
95 *religious institutions institution to confirm compliance with the provisions of this section and to investigate*  
96 *complaints that the religious institution is not in compliance with the provisions of this section. The*  
97 *Superintendent may revoke the exemption for any child day center in serious or persistent violation of the*  
98 *requirements of this section. If a religious institution operates a child day center and does not file and at the*  
99 *conclusion of such investigation may require any such center to provide the statement and documentary*  
100 *evidence required by this section, the Superintendent shall give reasonable notice to such religious institution*  
101 *of the nature of its noncompliance and may thereafter take such action as he determines appropriate,*  
102 *including a suit to enjoin the operation of the child day center described in subsection A or implement the*  
103 *procedures described in subsection B.*
- 104 D. Any person who has reason to believe that a child day center falling within the provisions of this  
105 section is not in compliance with the requirements of this section may report the same to the Department, the  
106 local health department, or the local fire marshal, each of which may inspect the child day center for  
107 noncompliance, give reasonable notice to the religious institution, and thereafter may take appropriate action  
108 as provided by law, including a suit to enjoin the operation of the child day center.
- 109 E. Nothing in this section shall prohibit a child day center operated by or conducted under the auspices of  
110 a religious institution from obtaining a license pursuant to this chapter.