

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 457

An Act to amend and reenact § 22.1-289.03 of the Code of Virginia, relating to public education; early childhood care and education; child care access calculations; report.

[S 134]

Approved April 8, 2026

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.03 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.03. Early childhood care and education system; establishment; need-based and demand-based funding.

A. The Board shall establish a statewide unified public-private system for early childhood care and education in the Commonwealth to ensure that every child has the opportunity to enter kindergarten healthy and ready to learn. Such system shall be administered by the Board, the Superintendent, and the Department and shall be formed, implemented, and sustained through a structure that engages and leverages both state-level authority and regional-level public-private partnership assets.

B. It is the intent of the General Assembly that the system established pursuant to subsection A shall (i) provide families with coordinated access for referral to early childhood education programs, (ii) provide families with easy-to-understand information about the quality of publicly funded early childhood care and education programs, (iii) establish expectations for the continuous improvement of early childhood care and education programs, and (iv) establish shared expectations for early childhood care and education programs among the Department of Education, the Department of Social Services, local school divisions, and state and regional stakeholders.

C. The system established pursuant to subsection A shall consist of a combination of programs offered through (i) the Virginia Preschool Initiative, pursuant to § 22.1-289.09, or any other school-based early childhood care and education program; (ii) licensed programs, pursuant to Article 3 (§ 22.1-289.010 et seq.); and (iii) unlicensed programs, pursuant to Article 4 (§ 22.1-289.030 et seq.).

D. To address family demand and preferences for affordable, high-quality early childhood care and education services, ~~state general funds that support the provision of services to families for early childhood care and education shall be provided as specified in the general appropriation act. Each year, no later than November 15, the Department shall report to the Governor and the Chairs of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations the projected general funds needed for the upcoming two fiscal years based on cost of quality rate per child in order to (i) maintain the current number of slots, (ii) increase the number of slots using a projected growth rate, and (iii) increase the number of slots to fully accommodate parent demand and eliminate waitlists the Department shall establish and maintain calculations that shall be used to provide a cost estimate for funding needed per biennium to address parental demand. Such projected general funds to meet such needs calculations shall be based on include:~~

1. An annual per-child cost determined through re-benchmarking for the Virginia Preschool Initiative;
2. An annual per-child cost based on *current and re-benchmarked levels under* the Department's federally approved alternative cost methodology for the Mixed Delivery Program identified in the general appropriation act;
3. An annual per-child cost based on *current and re-benchmarked levels under* the Department's federally approved alternative cost methodology for the Child Care Subsidy Program, which program shall be open to each child who is under the age of 13 in each family for as long as:
 - a. The family's income does not exceed 85 percent of the state median income;
 - b. The family includes at least one child who is five years of age or younger and has not started kindergarten; and
 - c. The family meets all other eligibility requirements;
4. ~~Current program~~ *An estimate of parental demand and choice preferences based on historic growth and current eligibility criteria for each program; and*
5. ~~Maximization of~~ *An estimate of the number of slots to be added to support local or regional (i) economic development efforts and (ii) public-private partnerships focused on increasing the supply of child care services. Priority shall be given to localities or regions identified as child care deserts.*

Such calculations shall not affect regularly recurring federal funding including federal funding provided for the Child Care Subsidy Program, Early Head Start, or Head Start, or pursuant to Part B of the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1411 et seq. Pursuant to such calculations, such federal funding shall be maximized and fully expended prior to expending any state general funds. Such calculations shall not obligate the General Assembly to a specific appropriation of funds but shall be used to

provide information to guide the General Assembly in making decisions about the proportion of parental demand for and supply of early childhood care and education services to be addressed and level of appropriation required to address such demand. Annual overall funding available shall be subject to appropriation as determined by the General Assembly.

No later than May 15 before each upcoming year, each regional entity established by the Board pursuant to subsection D of § 22.1-289.05 shall indicate the number of slots needed in the region for the Mixed Delivery Program, each local school division shall indicate the number of slots needed in the local school division for the Virginia Preschool Initiative, and each locality shall indicate the number of slots needed in the locality for the Child Care Subsidy Program. *In determining the number of slots to be added to support local or regional economic development efforts and public-private partnerships pursuant to this subdivision 5, the Department, in consultation with the Virginia Economic Development Partnership Authority and the Virginia Early Childhood Foundation's Virginia Business Roundtable for Early Education, shall calculate slots needed to ensure adequate supply for the biennium in regions with (a) active, recognized economic development initiatives; (b) public-private partnerships focused on building supply of quality child care services; or (c) identified child care deserts.* The Department shall reallocate slots with available funding from the Child Care Subsidy Program and Mixed Delivery Program as determined pursuant to this subsection no later than July 1. Following fall enrollment periods, the Department shall make adjustments based on family preferences. In providing funding for slots pursuant to this subsection, all current-year state general funds shall be expended first. *If waitlists for slots at early childhood care and education sites remain, up to \$5 million from prior-year unexpended state general funds appropriated for such purpose in a general appropriation act may be carried forward to the current fiscal year to temporarily provide additional slots during the current fiscal year solely to reduce or eliminate waitlists, unless the general appropriation act authorizes a greater amount to be carried forward. Such prior-year funds shall not be used to increase the base amount of funding required in the subsequent fiscal year and the Department shall monitor program utilization and attrition to ensure that no families will lose access at the end of the current fiscal year.*

E. The Department shall, no later than the third Wednesday in October of each year, submit to the Commission on Early Childhood Care and Education, established pursuant to § 2.2-208.1, and post in a publicly accessible location on its website a report on the data used to calculate the minimum funding and number of slots for the calculations pursuant to subsection D.