2022 Special Session I

Budget Bill - HB29 (Chapter 1)

Department of Social Services

Item 357	First Year - FY2021	Second Year - FY2022
Regulation of Public Facilities and Services (56100)	**$43,491,485**	~~**$16,311,476**~~ ***$14,655,078***
Regulation of Adult and Child Welfare Facilities (56101)	$40,425,498	~~$13,245,489~~ *$11,648,998*
Background Investigation Services (56106)	$3,065,987	~~$3,065,987~~ *$3,006,080*
Fund Sources:		
General	$6,554,217	~~$6,942,856~~ *$7,200,754*
Special	$3,143,517	$3,143,517
Federal Trust	$33,793,751	~~$6,225,103~~ *$4,310,807*

Authority: Title 63.2, Chapters 17 and 18, Code of Virginia.

A. The state nongeneral fund amounts collected and paid into the state treasury pursuant to the provisions of § 63.2-1700, Code of Virginia, shall be used for the development and delivery of training for operators and staff of assisted living facilities, adult day care centers, and child welfare agencies.

B. As a condition of this appropriation, the Department of Social Services shall (i) promptly fill all position vacancies that occur in licensing offices so that positions shall not remain vacant for longer than 120 days and (ii) hire sufficient child care licensing specialists to ensure that all child care facilities receive, at a minimum, the two visits per year mandated by § 63.2-1706, Code of Virginia, and that facilities with compliance problems receive additional inspection visits as necessary to ensure compliance with state laws and regulations.

C. As a condition of this appropriation, the Department of Social Services shall utilize a risk assessment instrument for child and adult care enforcement. This instrument shall include criteria for determining when the following sanctions may be used: (i) the imposition of intermediate sanctions, (ii) the denial of licensure renewal or revocation of license of a licensed facility, (iii) injunctive relief against a child care provider, and (iv) additional inspections and intensive oversight of a facility by the Department of Social Services.

D. Out of this appropriation, the Department of Social Services shall implement training for new assisted living facility owners and managers to focus on health and safety issues, and resident rights as they pertain to adult care residences.

E. Out of this appropriation, $8,853,833 and 59 positions the first year from the federal Child Care and Development Fund (CCDF) shall be provided to address the workload associated with licensing, inspecting and monitoring family day homes, pursuant to § 63.2-1704, Code of Virginia. The Department of Social Services shall provide an annual report, not later than October 1 of each year for the preceding state fiscal year ending June 30, on the implementation of this initiative to the Governor, the Chairmen of the House Appropriations and Senate

Finance Committees, and the Director, Department of Planning and Budget.

F. The Department of Social Services shall work with localities that currently inspect child day care centers and family day homes to minimize duplication and overlap of inspections pursuant to § 63.2-1701.1, Code of Virginia.

G. No child day center, family day home, or family day system licensed in accordance with Chapter 17, Title 63.2; child day center exempt from licensure pursuant to § 63.2-1716; registered family day home; family day home approved by a family day system; or any child day center or family day home that enters into a contract with the Department of Social Services or a local department of social services to provide child care services funded by the Child Care and Development Block Grant shall employ; continue to employ; or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who has an offense as defined in § 63.2-1719. All employees and volunteers shall undergo the following background check by July 1, 2017 and every 5 years thereafter, as required by the federal Child Care and Development Block Grant Act of 2014 (CCDBG).

H. 1. A child day program that operates for children of essential personnel or those who have been identified as needing in-person services, who are in need of child care as a result of the COVID-19 pandemic, shall be exempt from licensure. Programs operating under this emergency licensing exemption must file an exemption with the Department and abide by the requirements set forth in § 63.2-1715(C) and (D), Code of Virginia. The Commissioner shall have the authority to inspect these programs only upon receipt of a complaint, except as otherwise provided by law.

2. An instructional program operating under § 63.2-1715 (A), Code of Virginia solely for children of essential personnel must file with the Commissioner a statement indicating the intent to operate the program and identifying that the program will operate solely for the children of essential personnel or those who have been identified as needing in-person services. All emergency child care programs shall follow Centers for Disease Control and Prevention and Virginia Department of Health guidance on safety measures to prevent the spread of COVID-19.

I. When a child day program operates in response to the COVID-19 pandemic, a background check for an individual associated with a child day program operating solely for children of essential personnel or those who have been identified as needing in-person services shall not be required for any individual who has completed a background check under the provisions of § 63.2-1720.1 or § 63.2-1721.1, Code of Virginia within the previous two years and who continues to be eligible. The Department shall establish a process regarding background check portability, and child day program providers seeking portability must follow this process.

J. Any public or accredited private school may operate emergency child care for preschool or school aged children of essential personnel or those who have been identified as needing in-person services during a declared state or local emergency due to COVID-19. Such programs shall be exempt from licensure (§ 63.2-1715, Code of Virginia) and shall be subject to safety and supervisory standards, including background checks, established by the local school division or accredited private school offering the program. All emergency child care programs shall follow Centers for Disease Control and Prevention and Virginia Department of Health guidance on safety measures to prevent the spread of COVID-19.

K.1. The Department of Social Services is authorized to temporarily waive the maximum reimbursable rate requirement in the Child Care Subsidy Regulation (22VAC40-665-80. Determining payment amount) and replace it with a flat rate of ten dollars per hour for in-home child care providers. The provisions of this paragraph, as well as any actions implemented under its authority, shall be in accordance with the Governor's emergency declaration for COVID-19 and be in effect for the period specified therein.

2. If any action implemented in accordance with K.1. of this Item creates a fiscal obligation, the Department shall utilize appropriate nongeneral fund sources to fund the costs incurred. No general fund appropriation shall be used for this purpose.

L. Out of this appropriation, $2,528,124 the first year and $786,369 the second year from the general fund and $11,062,664 the first year and $68,362 the second year from nongeneral funds shall be appropriated to fund the replacement of the agency licensing system. Any unexpended general fund balance as of June 30, 2021, related to this paragraph shall be reappropriated to continue replacement of the agency licensing system.