

BILL TO AMEND 63.2-1715 RELATED TO CHILD DAY PROGRAM EXEMPTIONS

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MICHELLE GOWDY

Michelle joined the league staff in 2016. She began her local government career in 2009, working as an Assistant County Attorney in New Kent County. She later became the New Kent County Attorney in 2010 and spent a brief amount of time as the James City County Attorney in 2015 prior to joining VML. Michelle worked as a prosecutor and for the Virginia Department of Forensic Science until 2008. Originally from northern Wisconsin, she received a bachelor of arts degree in International Business from Carthage College in 1993 and a Juris Doctorate from Oklahoma City University in 1996.



SUE ROWLAND

Lobbyist with Eldon James and Associates.



WHY CHANGE THE LAW?

That § 63.2-1715 of the Code of Virginia is amended and reenacted as follows:

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if 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 focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs for instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and on-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation

WHAT IS EXEMPT?

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, 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.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, 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.

WHAT IS EXEMPT?

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.
6. Practice or competition in organized competitive sports leagues.
7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

THE CHANGE THAT IS IMPORTANT TO PARKS AND RECREATION

- 8. A program of instructional or athletic experience operated during the summer months by and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.
- 9. **A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.**

TO REMAIN EXEMPT

It is important to remain exempt from Licensure that Parks and Recreation Departments:

1. Continue to be *Mandatory Reporters*
2. *Do not accept* Virginia Department of Social Services Funding for any parks and recreation programs and or participants in programs.
3. Have *clear and concise operating procedures for programs and reporting structures* in each local government agency

WHAT CAN I DO?

- Speak with your County Administrator or City Manager for support of the bill
- Speak with your governing body about supporting the bill
- Gain support from your local General Assembly members

WHAT CHANGES WILL TAKE PLACE ON JULY 1, 2019 IF NO NEW LEGISLATION

§ 63.2-1715. (Effective July 1, 2019) Exemptions from licensure.

B. The following child day programs shall not be required to be licensed:

1. A child day program or child day center that has obtained an exemption pursuant to § 63.2-1716.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.



CONTINUED 63.2-1715

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.


6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

CONTINUED 63.2-1715

- 7.A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

NEW PROCEDURES STARTING JULY 1, 2019

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:


- 1. File with the Commissioner annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;
 - 2. Report to the Commissioner all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and
 - 3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.
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CONTINUED: NEW PROCEDURES STARTING JULY 1, 2019

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

- 1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;
- 2. Maintain daily attendance records that document the arrival and departure of all children;
- 3. Have an emergency preparedness plan in place;
- 4. Comply with all applicable laws and regulations governing transportation of children; and

CONTINUED: NEW PROCEDURES STARTING JULY 1, 2019

- 5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.
 - E. The Commissioner shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.
 - F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.
 - G. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.
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Questions?