

SENATE BILL NO. 702

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health
on February 8, 2024)

(Patrons Prior to Substitute--Senators Subramanyam and Durant [SB 75])

A BILL to amend and reenact § 22.1-289.030 of the Code of Virginia, relating to early childhood care and education; exemption from licensure for certain child day programs.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.030 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.030. Exemptions from licensure.

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 of 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 one-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.

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.

26 4. Instructional programs offered by public schools that serve preschool-age children, satisfy
27 compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act
28 (20 U.S.C. § 1400 et seq.), as amended, and programs of school-sponsored extracurricular activities that
29 are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign
30 language.

31 5. Early intervention programs for children eligible under Part C of the Individuals with
32 Disabilities Education Act (20 U.S.C. § 1431 et seq.), as amended, wherein no child attends for more than
33 a total of six hours per week.

34 6. Practice or competition in organized competitive sports leagues.

35 7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah
36 or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of
37 specified religious services or related activities to allow parents or guardians or their designees who are
38 on site to attend such religious services and activities.

39 8. A program of instructional or athletic experience operated during the summer months by, and
40 as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-
41 19 and administered by the Virginia Council for Private Education.

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

43 1. A child day center that has obtained an exemption pursuant to § 22.1-289.031.

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

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

51 4. Child-minding services that are not available for more than three hours per day for any
52 individual child offered on site in commercial or recreational establishments if the parent or guardian (i)

53 can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is
54 receiving or providing services or participating in activities offered by the establishment.

55 5. A certified preschool or nursery school program operated by an accredited private school as set
56 forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the
57 provisions of § 22.1-289.032.

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

61 7. A program offered by a local school division, operated for no more than four hours per day on
62 full instructional days or for more than four hours per day on shortened instructional days or
63 noninstructional days, staffed by local school division employees, and attended by children who are at
64 least three years of age and are enrolled in public school or a preschool program within such school
65 division. Such programs shall be subject to safety and supervisory standards established by the local school
66 division offering the program.

67 8. Child-minding services offered by a business on the premises of the business to no more than
68 four children under the age of 13 at any given time and for no more than eight hours per day, provided
69 that the parent or guardian of every child receiving care is an employee of the business who is on the
70 premises of the business and can resume responsibility for the child's supervision within 30 minutes upon
71 request.

72 9. A program offered by a private school accredited by and in good standing with the Virginia
73 Council for Private Education, operated for no more than four hours per day, staffed by the accredited
74 private school's employees, and attended by school-age children who are enrolled in the accredited private
75 school. Such programs shall be subject to safety and supervisory standards established by the Virginia
76 Council for Private Education.

77 10. A child day program that (i) serves only dependent children of military personnel and (ii) (a)
78 is located on a military base or federal property or (b) is certified as a family child care provider by a
79 branch of the Armed Forces of the United States. Any branch of the Armed Forces of the United States or

80 its agent, including an installation commander of a military base on which a child day program is located,
81 may assume responsibility for approving or determining which children may be served by the program
82 that is so exempted from licensure.

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

85 1. File with the Superintendent annually and prior to beginning operation of a child day program
86 a statement indicating the intent to operate a child day program, identifying the specific provision of this
87 section relied upon for exemption from licensure, and certifying that the child day program has disclosed
88 in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

89 2. Report to the Superintendent all incidents involving serious physical injury to or death of
90 children attending the child day program. 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
93 after the death occurred; and

94 3. Post in a visible location on the premises notice that the child day program is operating as a
95 program exempt from licensure with basic health and safety requirements but has no direct oversight by
96 the Department.

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

99 1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the
100 child day program whenever children are present or at any other location in which children attending the
101 child day program are present;

102 2. Maintain daily attendance records that document the arrival and departure of all children;

103 3. Have an emergency preparedness plan in place;

104 4. Comply with all applicable laws and regulations governing transportation of children; and

105 5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

106 E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to
107 subsection B to determine compliance with the provisions of this section only upon receipt of a complaint,
108 except as otherwise provided by law.

109 F. Family day homes that are members of a licensed family day system shall not be required to
110 obtain a license from the Superintendent.

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