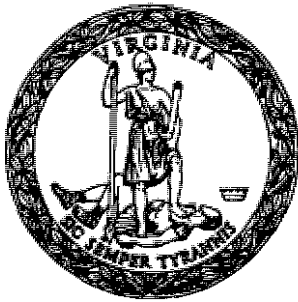


**PROGRESS REPORT OF THE  
JOINT LEGISLATIVE  
AUDIT AND REVIEW COMMISSION ON**

# **Regulation of Child Day Care In Virginia**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **HOUSE DOCUMENT NO. 46**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1989**

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## Preface

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Senate Joint Resolution 41 and House Joint Resolution 116 direct the Joint Legislative Audit and Review Commission to review the current regulation of child day care in Virginia. The resolutions require that this progress report be presented to the 1989 General Assembly and that a final report be made prior to the 1990 Session.

In 1988, the research for the study was begun. More than 2,000 surveys have been sent to day care providers, associations, and others with an interest in day care services. In addition, under contract with JLARC, Virginia Commonwealth University completed a statewide telephone survey of more than 550 families. Many of the providers of child day care have been visited by the JLARC staff, and additional visits are planned.

In 1989, the research will be completed. Our findings and recommendations will be reported to the 1990 General Assembly.



Philip A. Leone  
Director

January 20, 1989

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# Regulation of Child Day Care in Virginia

A Progress Report to the 1989 Virginia General Assembly

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In recent years, the provision and regulation of child day care has become an important issue in Virginia and across the nation. The issue has grown in importance because of fundamental changes in the structure of American society.

Primary among those changes is the increase in the number of women in the workforce. Across the nation, more mothers are working. In 1976, about 31 percent of women with children under age one were working. By 1987, 51 percent of women with children under age one were working. As a result, the "traditional" American family — the father working, the mother at home to care for the children — now makes up fewer than ten percent of all American families.

## Child Day Care in Virginia

The increase in the number of women working outside the home in Virginia has resulted in an increased need for child day care. In response to that need, the growth in child day care services available statewide has been substantial (Table 1). For the period between 1980 and 1988, for example, the number of day care centers licensed by the State increased by about 73 percent. Between 1984 and 1988, the total capacity of State-licensed and church-exempt centers and licensed day care providers increased from 50,380 children to 87,851 children, or about 74 percent. In addition, thousands of children are cared for in unlicensed family day care homes.

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Table 1

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### Number of Licensed and Church-Exempt Centers, Family Day Care Systems and Homes

<u>Year</u>	<u>Licensed Centers</u>	<u>Church Exempt Centers</u>	<u>Licensed Family Homes</u>	<u>Family Systems</u>	<u>Total Capacity</u>
1980	534	22	128	— *	— **
1984	675	77	153	10	50,380
1988	925	146	272	4	87,851
Change	+73%	+564%	+113%	—	+74%

\* Systems were created in 1981.

\*\* Capacity figures not available for 1980.

Source: Department of Social Services.

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While the statewide growth in licensed child day care has been substantial, this care is not uniformly available in all Virginia localities (Table 2). In comparing only the capacity in centers or homes licensed by the State, the available care appears evenly split between the counties and cities, with 41,372 slots in counties, and 39,561 slots in cities. However, when the average capacity per 1,000 children under age 15 is compared, it is clear that cities have a much greater capacity for licensed care. In counties the average capacity is 28 slots per 1,000 children, while in the cities the average capacity is 112 slots per 1,000 children.

**Table 2**

**Capacity of Licensed Child Day Care in Virginia**

	<u>Counties</u>	<u>Cities</u>	<u>State</u>
Total Licensed Capacity	41,372	39,561	80,933
Average Capacity Per 1,000 Children Aged 0-14	28	112	53
Minimum Capacity Per 1,000 Children Aged 0-14	0	0	0
Maximum Capacity Per 1,000 Children Aged 0-14	141	640	—
Number of Localities with No Licensed Care	20	4	24

Source: JLARC staff analysis of Department of Social Services data.

In addition, while four cities currently have no licensed care available, 20 counties have no licensed care (Figure 1). In these 24 Virginia localities parents have limited choices for child day care services because they must rely on unlicensed care providers or find care in another county or city.

**Funding of Child Day Care**

In addition to the fees paid by parents, child day care services in Virginia are funded by federal, State, and local government programs. Until recently, child day care was primarily funded by federal programs. However, in the past two biennia the State has offset the loss of federal funds by increasing general fund appropriations. In addition, some localities have increased funding for child day care because of reductions in federal funding.



***Federal Funding.*** Four federal programs provide direct funding for child day care in the Commonwealth: the Social Services Block Grant (Title XX), the Employment Services Program, the Child Care Food Program, and Head Start. In Virginia, Title XX funding has federal, State, and local participation rates of 75, 15, and 10 percent, respectively. In addition, the federal government provides indirect funding in the form of income tax credits for parents with children in care.

***State Funding.*** The State also provides direct and indirect funding for child day care services. The State has appropriated \$6.5 million in general funds for each year of the 1988-1990 biennium to support day care programs. This represents an increase of \$5 million from FY 1988 levels.

State programs primarily target low-income working families. For example, the Child Care Fee System program is for families that do not qualify for other programs. The State uses a sliding scale to subsidize day care costs which exceed ten percent of a family's gross income. Localities must supplement State funding of this program with a ten percent match.

The 1988-1990 Appropriations Act also funds day care services for the children of migrant and seasonal laborers and three pilot day care projects, which test a voucher system for care in a rural, urban, and suburban community. The State provides indirect funding for child day care services through the State income tax deduction for child and dependent care expenses.

***Local Funding.*** Local funding for child day care services takes two forms: matching funds and local-only funds. Localities must match federal and State Title XX funds. In addition, a ten percent local match is required for participation in the State's Child Care Fee System program. The federal Employment Services Program also includes local funds, again at a ten percent match.

Local-only funds are used for programs which receive no federal or State support, and programs for which all federal and State funds have been expended. More than \$1.7 million in local-only funds (72 percent of all local funds for child day care) were expended for day care services in FY 1987.

## **Regulation of Child Day Care in Virginia**

Child day care in Virginia is regulated in different ways by several different entities. While the State plays a key role in the regulation of child day care, federal and local agencies also regulate certain types of child day care services.

***State Licensing.*** The primary form of State regulation of child day care is the licensing of day care centers, family day care homes, and family day care systems by the Department of Social Services (DSS). Currently, certain types of care are exempted or excepted from licensing, including day care centers sponsored by

churches, hospitals, and government agencies. In addition, family home providers caring for fewer than six children are not required to be licensed.

Historically, licensing standards have been promulgated by the Board of Social Services. In 1987, however, the Child Day-Care Council was created and charged with the establishment of new standards for child care centers. These standards will become effective in July 1989. In the interim, the standards established for centers by the Board of Social Services remain in effect. Centers must also satisfy local health, safety, and fire requirements to be licensed. Inspections are made by local health department officials, State or local fire marshals, and local building inspectors.

Standards for family day care homes have been promulgated by the Board of Social Services. These standards are not as broad in scope as those for centers. A set of standards has also been developed by the board for use by family day care systems in approving member homes. These standards are less extensive than those for family day care homes because systems are allowed to establish additional standards for their member homes. Inspections for health and fire safety are not required for family day care homes.

State Certification. The Department of Social Services also certifies government-sponsored centers which are not required to be licensed. This certification is done on a voluntary basis to permit these centers to receive public funds. Approximately 20 government-sponsored centers are "certified as licensed," meaning that they have satisfied the licensing standards and that the health and fire safety inspections required of other child care centers have been conducted.

Regulation by Military Authorities. All four branches of the military regulate centers and family homes which provide child day care on military installations. Each branch of the military has its own standards for regulating child care providers. There are at least four child care centers and more than 300 family day care homes in Virginia which are regulated by the military.

Certification by Local Departments of Social Services. Individual providers and family day care homes that care for children receiving Title XX day care payments must be certified by local departments of social services. Standards for these providers have been developed by staff within the Division of Purchase of Services, rather than by the Division of Licensing, but have been approved by the Board of Social Services. Therefore, some of these standards differ from the standards for licensing family day care homes. DSS estimates that there are more than 1,000 of these locally-certified providers in Virginia.

Registration by Local Governments. Two localities currently register family day care homes. Registration is mandatory for homes in the City of Alexandria, while Arlington County has voluntary registration. In addition, Fairfax County has an information and referral system. To be listed in the system, a provider must submit



two letters of reference and a child protective services check. Fairfax is considering implementing mandatory registration in the next two years. These three localities had a total of 1,293 homes registered or listed in July 1988.

*Certification by USDA and its Sponsor Associations.* Day care providers must be regulated to participate in the United States Department of Agriculture (USDA) Child Care Food Program. This program reimburses providers for food expenses and sets standards for nutritious meals for children in care. Family day care providers who are not otherwise regulated can be voluntarily certified by USDA or one of its 20 sponsor associations. As of July 1988, 982 homes in Virginia were certified by USDA or one of its associations.

### **Study Mandate**

In response to growing concerns about the regulation of child day care in Virginia, the 1988 General Assembly passed two resolutions directing JLARC to review the regulation of child day care. Senate Joint Resolution 41 and House Joint Resolution 116 (Appendix A) request an examination of:

- the opinions of parents, providers, and associations regarding licensure,
- the appropriateness of licensing exemptions and exceptions,
- the definition and regulation of family day care,
- the funding needed to regulate day care providers if fewer exemptions and exceptions are allowed,
- initiatives that would improve availability and promote quality care,
- the training received by day care providers, and
- the type of system that would equalize the impact of regulation on all types of providers.

The resolutions also direct JLARC to make a progress report to the 1989 Session of the General Assembly and a final report to the 1990 General Assembly.

### **Study Issues**

Based on the study mandate, JLARC staff have developed study issues in two major areas. The study issues are designed to provide (1) a comprehensive review of child day care regulation, and (2) a review of initiatives which may promote provision of day care services in the Commonwealth.

Issues Related to the Regulation of Care. The first issue area examines ways in which the State can improve the regulation of child day care services. Five specific questions will be addressed:

- What is child day care and how should it be defined?
- What is the State's interest in regulating child day care?
- Which providers of child day care services should be regulated?
- What form or forms should the regulation take?
- How should regulation be implemented?

Issues Related to the Provision of Care. The second issue area is concerned with how the State can improve the provision of child day care in Virginia. For this issue, two questions have been developed:

- What can the State do to make child day care services more widely available?
- What can the State do to make child day care services more affordable?

These two questions will address initiatives the State might consider to improve the accessibility of care statewide or in certain regions of the State. In addressing these issues the study team will develop estimates of the current availability of, and demand for child day care.

## **Research Activities**

The issues to be addressed in the final report on the regulation of child day care will be complex. In order to provide relevant information to address the issues, JLARC staff have developed a broad array of research activities. Because there is currently a lack of reliable data on day care in Virginia, much of the research to date has involved the use of surveys and other data collection techniques. The information from these efforts will be useful in understanding many of the issues raised by the study mandate.

Child Day Care Public Forum. The first important research activity for the study was a public forum held in Richmond in April 1988. The participants in the forum included parents, child care center operators, family day care providers, and representatives of private schools, the U.S. Army, State and local government agencies, and day care associations. The 44 speakers addressed a variety of issues including the need for licensure, exemptions and exceptions, the State's role in regulation, the burden of regulation on providers, and training for providers and licensing specialists.

Survey of Day Care Consumers. To collect information on the child care services Virginia parents are currently using, and to obtain their opinions about the quality of care and State regulation, JLARC staff used a random survey of 556 households with children under age 13. To complete the survey, JLARC staff contracted with the Virginia Commonwealth University Survey Research Laboratory. More than 2,000 telephone calls were made to contact the 556 respondents. Of these, 208 households had children currently in care. For these households, the survey questions related to current child care arrangements; types of care needed; problems with quality, availability, and costs of care; and the regulation of care providers.

Survey of Child Care Providers. The survey of child care service providers involves two separate research efforts. The first is a mail survey of more than 1,700 day care centers, regulated family day care homes, and other providers of children's services. The second effort is a telephone survey of unregulated family day care homes by the Virginia Commonwealth University Survey Research Laboratory. The questions on these surveys are related to the characteristics of care provided, experiences with licensing, and opinions on subjectivity to regulation.

Survey of Licensing Specialists. JLARC staff are also surveying all of the Department of Social Services licensing specialists. This mail survey includes questions related to training, caseload, licensing activities, and enforcement.

Survey of Associations. There are many associations in Virginia with an interest in the regulation of child day care services, including provider organizations and consumer groups. To ensure that the concerns of these associations are considered as a part of the study, JLARC staff are surveying all identified associations in the State. Questions on these surveys relate to the organizations' positions on child care, regulation, and enforcement.

Survey of Other States. The final survey effort is a telephone survey of selected states. With this survey JLARC staff will be collecting information about the forms of regulation used in other states, the costs of that regulation, and any recent initiatives that may have been implemented to improve the availability of child day care services.

Field Visits. Currently, there are many types of child care programs and other children's services available in Virginia. In order to understand what services these programs offer, and how the many programs may differ, JLARC staff will be visiting a number of the programs. These field visits began in the summer of 1988, and will continue through the winter of 1989. In all, more than 80 visits will be made to providers of children's services, including day care centers, family day care homes, church- and hospital-sponsored day care programs, government-sponsored programs, summer camps, recreation programs, and after-school programs. The visits include interviews with staff, tours of the facilities, and reviews of program characteristics. In addition, JLARC staff are observing licensing procedures and investigations of allegations by DSS.

***Other Research Activities.*** Other research activities for the study include interviews with the staff of the Department of Social Services, the Department for Children, and other State agencies. The interviews, surveys, and field visits will provide information necessary to evaluate the current state of regulation in Virginia.

Appendix A

**GENERAL ASSEMBLY OF VIRGINIA -- 1988 SESSION**

**HOUSE JOINT RESOLUTION NO. 116**

*Requesting the Joint Legislative Audit and Review Commission to study the regulation of child day care and how subsection to child day care regulation should be determined in the Commonwealth.*

Agreed to by the House of Delegates, February 16, 1988

Agreed to by the Senate, March 2, 1988

WHEREAS, the physical, mental, emotional, and social development of children will affect the future of any society; and

WHEREAS, child care providers have enabled employers to recruit and retain a stable work force; and

WHEREAS, women have become a necessary and vital part of Virginia's healthy economy; and

WHEREAS, there are 906 child care centers, 274 family day care homes and four family day care systems licensed by the Department of Social Services for approximately 75,678 child care spaces; and

WHEREAS, there are 149 religiously exempt programs for 9,880 children and at least eleven exempt hospital-sponsored programs for approximately 1,025 children; and

WHEREAS, there are seven exemptions and exceptions under the definition of child care center and three exceptions under the definition of family day care home; and

WHEREAS, there is an undetermined number of children receiving care in homes not subject to licensure; and

WHEREAS, many providers receive no supervision or training, since the majority of family day care homes are unregulated and many exemptions and exceptions exist for child care centers; and

WHEREAS, it is difficult for parents to locate and evaluate unregulated care; and

WHEREAS, regulation assists parents who might not have the expertise to determine safe and quality care; and

WHEREAS, elimination of exceptions and exemptions will result in increased state government costs due to regulating additional facilities; and

WHEREAS, the National Association for the Education of Young Children opposes exemptions and exceptions to regulation of child care programs on the basis of sponsorship, length of the program day, or on the ages or number of children served; and

WHEREAS, one of the recommendations of the Governor's Child Care Conference in June of 1987 was to eliminate all exemptions and exceptions to licensure for child care centers; and

WHEREAS, unlicensed facilities can provide care that is less expensive and compete unfairly with licensed providers; now, therefore, be it

**RESOLVED** by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission study the regulation of child day care and how subsection to child day care regulation should be determined in the Commonwealth.

The study shall (i) survey consumers and providers of child day care and associations concerned with child day care about subjectivity to child day care licensure, (ii) review Code §§ 63.1-195, 63.1-196 and 63.1-196.3 with respect to exemptions and exceptions, (iii) make recommendations regarding appropriateness of exemptions and exceptions, taking into consideration the number and ages of children, the amount of hours the children are in care, and the protection needed to ensure the health and safety for children in care, (iv) examine the definition of and regulation of family day care with respect to the number of children allowed, make recommendations regarding this definition and whether there should be separate standards for family day care homes and group family day care homes, whether homes should be licensed or registered, and, if a registration model is proposed, whether it should be mandatory or voluntary, (v) determine the amount of funding necessary to implement regulation in an effective and consistent manner if there is a reduction in exemptions and exceptions; (vi) recommend ways to improve the availability of child care and promote quality child care; (vii) examine training of care providers; and (viii) design a system which would equalize impact on all types of child care, public, private or proprietary.

All agencies of the Commonwealth shall provide assistance upon request to the study as appropriate.

The Joint Legislative Audit and Review Commission shall complete its work in time to submit its findings and recommendations to the Governor and to the 1990 Session of the General Assembly, providing interim reports to the 1989 Session of the General Assembly and at other times as appropriate using the procedures of the Division of Legislative Automated Systems for processing legislative documents.

**RESOLVED FURTHER**, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Philip A. Leone, Director.

Appendix A (continued)

SENATE JOINT RESOLUTION NO. 41

*Requesting the Joint Legislative Audit and Review Commission to study the regulation of child day care and how subjection to child day care regulation should be determined in the Commonwealth.*

Agreed to by the Senate, February 10, 1988

Agreed to by the House of Delegates, March 9, 1988

WHEREAS, the physical, mental, emotional, and social development of children will affect the future of any society; and

WHEREAS, child care providers have enabled employers to recruit and retain a stable work force; and

WHEREAS, women have become a necessary and vital portion of Virginia's healthy economy; and

WHEREAS, there are 906 child care centers, 274 family day care homes and four family day care systems licensed by the Department of Social Services for approximately 75,678 child care spaces; and

WHEREAS, there are 149 religiously exempt programs for 9,889 children and at least 11 exempt hospital-sponsored programs for approximately 1,025 children; and

WHEREAS, there are seven exemptions and exceptions under the definition of child care center and three exceptions under the definition of family day care home; and

WHEREAS, there is an undetermined number of children receiving care in homes not subject to licensure; and

WHEREAS, many providers receive no supervision or training, since the majority of family day care homes are unregulated and many exemptions and exceptions exist for child care centers; and

WHEREAS, it is difficult for parents to locate and evaluate unregulated care; and

WHEREAS, regulation assists parents who might not have the expertise to determine safe and quality care; and

WHEREAS, elimination of exceptions and exemptions will result in increased state government costs due to regulating additional facilities; and

WHEREAS, the National Association for the Education of Young Children opposes exemptions and exceptions to regulation of child care programs on the basis of sponsorship, length of the program day, or on the ages or number of children served; and

WHEREAS, one of the recommendations of the Governor's Child Care Conference in June of 1987 was to eliminate all exemptions and exceptions to licensure for child care centers; and

WHEREAS, unlicensed facilities can provide care that is less expensive and compete unfairly with licensed providers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission will study the regulation of child day care and how subjection to child day care regulation should be determined in the Commonwealth.

The study shall (i) survey consumers and providers of child day care and associations concerned with child day care about subjectivity to child day care licensure; (ii) review Code §§ 63.1-195, 63.1-196 and 63.1-196.3 with respect to exemptions and exceptions, (iii) make recommendations regarding appropriateness of exemptions and exceptions, taking into consideration the number and ages of children, the amount of hours the children are in care, and the protection needed to ensure the health and safety for children in care, (iv) examine the definition of and regulation of family day care with respect to the number of children allowed, make recommendations regarding this definition and whether there should be separate standards for family day care homes and group family day care homes, whether homes should be licensed or registered, and, if a registration model is proposed, whether it should be mandatory or voluntary, (v) determine the amount of funding necessary to implement regulation in an effective and consistent manner if there is a reduction in exemptions and exceptions; (vi) recommend ways to improve the availability of child care and promote quality child care; (vii) examine training of care providers; and (viii) design a system which would equalize impact on all types of child care, public, private or proprietary.

All agencies of the Commonwealth shall provide assistance upon request to the study as appropriate.

The Joint Legislative Audit and Review Commission shall complete its work in time to submit its findings and recommendations to the Governor and to the 1990 Session of the General Assembly, providing interim reports to the 1989 Session of the General Assembly and at other times as appropriate as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

RESOLVED FINALLY, That the Clerk of the Senate prepare a copy of this resolution for presentation to Philip A. Leone, Director.

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