

2025 SESSION

INTRODUCED

25104417D

HOUSE BILL NO. 1959

Offered January 13, 2025

Prefiled January 6, 2025

A BILL to require the Department of Education to establish an additional priority group for the Child Care Subsidy Program waiting list and establish, track, and report on a target timeline for assigning slots to Child Care Subsidy Program priority groups.

Patrons—Bennett-Parker, Anthony, Askew, Callsen, Carr, Cohen, Convirs-Fowler, Cousins, Feggans, Gardner, Glass, Hayes, Helmer, Henson, Herring, Hope, Krizek, LeVere Bolling, Lopez, Maldonado, Martinez, McQuinn, Mundon King, Price, Reaser, Seibold, Sewell, Shin, Sickles, Simonds, Sullivan, Thomas, Tran, Ward and Watts

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Department of Education shall amend its Child Care Subsidy Program Guidance Manual to add a seventh priority group to the Child Care Subsidy Program waiting list that consists of any family that meets all other Child Care Subsidy Program eligibility criteria and includes a parent who is employed for at least 30 hours per week by a publicly funded child care provider in the Commonwealth that serves children from birth to age five, excluding employment by a local school division but including employment by a Head Start program that is located within a public school building. In addition to the Department of Education amending such manual, the Department shall require local departments of social services to target a maximum of 30 days for moving priority group families from the waiting list into services; regularly assess, in coordination with the Department of Social Services, the length of time it takes for priority groups to be assigned slots; and provide quarterly updates, beginning October 1, 2025, to the Commission on Early Childhood Care and Education on such timeline and any other barriers experienced by families in priority groups on the waiting list in accessing services. The Board of Education shall adopt any regulations and the Department of Education shall implement any policies or procedures necessary for the implementation and administration of the provisions of this act.*

INTRODUCED

HB1959

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HOUSE BILL NO. 1972

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education

on January 29, 2025)

(Patron Prior to Substitute—Delegate Gardner)

A BILL to amend and reenact § 22.1-289.03 of the Code of Virginia, relating to statewide unified public-private system for early childhood care and education in the Commonwealth; state goal; capacity and family choice.

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. Statewide unified public-private system for early childhood care and education in the Commonwealth.

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 *and with the goal of increasing and maintaining capacity systemwide to provide each family with meaningful access to high-quality and affordable choices among publicly funded, federally funded, mixed delivery, and private providers.* 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. Such projected general funds to meet such needs shall be based on:

1. An annual per-child cost determined through re-benchmarking for the Virginia Preschool Initiative;
2. An annual per-child cost based on 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 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 eligibility criteria; and
5. Maximization of 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.

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. The Department shall reallocate slots with available funding

HOUSE SUBSTITUTE

HB1972H1

60 from the Child Care Subsidy Program and Mixed Delivery Program as determined pursuant to this subsection
61 no later than July 1. Following fall enrollment periods, the Department shall make adjustments based on
62 family preferences. In providing funding for slots pursuant to this subsection, all current-year state general
63 funds shall be expended first.

25104342D

HOUSE BILL NO. 2538

Offered January 13, 2025

Prefiled January 9, 2025

A BILL to amend and reenact § 22.1-289.03 of the Code of Virginia, relating to public education; early childhood care and education; funding formula calculations; Early Childhood Care and Education Fund established; report.

Patrons—Bulova, Gardner, Bennett-Parker, Cousins, Glass, Price, Tran and Willett

Referred to Committee on Education

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 moneys from the Fund shall be used to 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 using a funding formula established and maintained by the Department that establishes the minimum funding and number of slots per biennium based on a cost of quality rate per child, actual data from the prior year, unserved waitlists, and a multiplier based on enrollment and parent demand growth in prior biennia. Such projected general funds to meet such needs funding formula 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 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 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 eligibility criteria; 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 funding formula shall not affect regularly recurring federal funding including federal funding

INTRODUCED

HB2538

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 the funding formula, such federal funding shall be maximized and fully expended prior to expending any state general funds or moneys from the Fund.*

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 subdivision 5, the Department, in consultation with the Virginia Economic Development Partnership 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 (i) active, recognized economic development initiatives, (ii) public private partnerships focused on building supply of quality child care services, or (iii) 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, available state and general funds from prior years shall be used to address family demand and preferences.*

E. There is hereby created in the state treasury a special nonreverting fund to be known as the Early Childhood Care and Education Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of supporting the provision of early childhood care and education services. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent. The Superintendent shall submit to the General Assembly no later than November 1 of each year a report on Fund revenues, distributions, and balances.

F. The Department shall submit to the Commission on Early Childhood Care and Education, established pursuant to § 2.2-208.1, a report on the status of the Fund established pursuant to subsection E, including the data used to calculate the minimum funding and number of slots for the funding formula pursuant to subsection D.

25107038D

HOUSE BILL NO. 2538

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 13, 2025)

(Patron Prior to Substitute—Delegate Bulova)

A BILL to amend and reenact § 22.1-289.03 of the Code of Virginia, relating to public education; early childhood care and education; funding formula calculations; report.

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 a funding formula that shall be used to predict the number of slots and level of funding needed per biennium to address parent demand. Such projected general funds to meet such needs funding formula 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 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 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 eligibility criteria; 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 funding formula 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 the funding formula, such federal funding shall be maximized and fully expended prior to expending any state general funds. Such funding formula 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 to be addressed and level of appropriation required to address such demand. Annual

60 *overall funding available for slots shall be subject to appropriation as determined by the General Assembly.*

61 No later than May 15 before each upcoming year, each regional entity established by the Board pursuant
62 to subsection D of § 22.1-289.05 shall indicate the number of slots needed in the region for the Mixed
63 Delivery Program, each local school division shall indicate the number of slots needed in the local school
64 division for the Virginia Preschool Initiative, and each locality shall indicate the number of slots needed in
65 the locality for the Child Care Subsidy Program. *In determining the number of slots to be added to support*
66 *local or regional economic development efforts and public-private partnerships pursuant to subdivision 5,*
67 *the Department, in consultation with the Virginia Economic Development Partnership Authority and the*
68 *Virginia Early Childhood Foundation's Virginia Business Roundtable for Early Education, shall calculate*
69 *slots needed to ensure adequate supply for the biennium in regions with (i) active, recognized economic*
70 *development initiatives; (ii) public-private partnerships focused on building supply of quality child care*
71 *services; or (iii) identified child care deserts. The Department shall reallocate slots with available funding*
72 *from the Child Care Subsidy Program and Mixed Delivery Program as determined pursuant to this subsection*
73 *no later than July 1. Following fall enrollment periods, the Department shall make adjustments based on*
74 *family preferences. In providing funding for slots pursuant to this subsection, all current-year state general*
75 *funds shall be expended first. If waitlists for slots at early childhood care and education sites remain,*
76 *available state and general funds from prior years shall be used to address family demand and preferences.*

77 *E. The Department shall submit to the Commission on Early Childhood Care and Education, established*
78 *pursuant to § 2.2-208.1, a report on the data used to calculate the minimum funding and number of slots for*
79 *the funding formula pursuant to subsection D.*

Attendance Requirement Language included in
Appropriation Act – Item 125.10 (Regular Session, 2025)

Item 125.10 B.6 - *The Department of Education shall revise attendance requirements for the Child Care Subsidy Program, subject to review by the Early Childhood Care and Education Commission, to ensure participating children fully benefit and maximization of available resources. The Department shall report proposed changes to the General Assembly by December 1, 2025.*

Item 125.10 C.4 - *The Department of Education, in consultation with the Virginia Early Childhood Foundation and subject to review by the Early Childhood Care and Education Commission, shall revise attendance requirements for the Mixed-Delivery initiative to ensure participating children fully benefit and maximization of available resources. The Department shall report proposed changes to the General Assembly by December 1, 2025.*

Item 125.10 D.1.d - *The Department of Education shall revise attendance requirements for the Virginia Preschool Initiative, subject to review by the Early Childhood Care and Education Commission, to ensure participating children fully benefit and maximization of available resources. The Department shall report proposed changes to the General Assembly by December 1, 2025.*

School Age Child Care Language included in
Appropriation Act – Item 125.10 (Regular Session, 2025)

Item 125.10 1.1-2 - *The Early Childhood Care and Education Commission shall review and recommend:*

1. Adjustments to CCSP reimbursement rates for school age children and the appropriateness of continuing to provide services through CCSP to school age children. Such review must also include an update on the current structure of publicly-funded out-of-school time learning and extracurricular programs and should evaluate how to: (i) maximize public dollars while ensuring parent choice; (ii) quantify impact and return on investment including evaluating cost and cost factors in comparison to birth-to-five programming; (iii) strengthen quality of afterschool and summer options and whether a statewide measurement system is needed; (iv) identify out-of-school time deserts; and (v) develop innovative approaches to reduce deserts, better support working parents, and ensure sustainability. In conducting this review, the Commission shall consult representatives of school divisions, 21st Century Learning grantees, private childcare providers, Virginia Partnership for Out-of-School Time, local Parks and Recreation entities, the YMCA, Communities in Schools, Boys and Girls Clubs, and other non-profit organizations that provide out-of-school time programming.

2. Approaches to maximize state and federal resources by adjusting income eligibility requirements to reflect regional costs of living variations.

The Commission shall provide a report on its recommendations to the Governor and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by December 1, 2025.

VIRGINIA ACTS OF ASSEMBLY - 2025 SESSION

CHAPTER 328

An Act to amend and reenact §§ 22.1-289.02 and 22.1-289.030 of the Code of Virginia, relating to Board of Education; out-of-school time programs; exemptions from licensure.

[S 1084]

Approved March 21, 2025

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-289.02 and 22.1-289.030 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-289.02. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Early childhood care and education entity" means a child day center, family day home, or family day system serving children under the age of five.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Head Start provider" means a public or private, nonprofit or for-profit organization or agency, including any community-based organization, as such term is defined in 20 U.S.C. § 7801, to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

"Out-of-school time program" means a program that (i) serves only school-age children; (ii) operates primarily before or after regular school hours, during the summer, or at times when school is not normally in session; and (iii) is offered for the purpose of promoting expanded childhood learning and enrichment, child and youth development, or educational, recreational, or character-building activities.

"Publicly funded provider" means any (i) educational program provided by a school division or local government to children between birth and age five or (ii) child day program that receives state or federal funds in support of its operations that serves three or more unrelated children. "Publicly funded provider" does not include any program for which the sole source of public funding is the federal Child and Adult Care Food Program (CACFP) administered by the U.S. Department of Agriculture Food and Nutrition Service.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Superintendent.

§ 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~~ five attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child ~~six~~ five 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.

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 (20 U.S.C. § 1400 et seq.), 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.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.), 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.

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.

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

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

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.

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 an accredited private school as set forth in § 22.1-19 and administered by the Virginia Council for Private Education that complies with the provisions of § 22.1-289.032.

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.

7. A program offered by a local school division, operated for no more than four hours per day on full instructional days or for more than four hours per day on shortened instructional days or noninstructional days, staffed by local school division employees, and attended by children who are at least three 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.

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

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

10. A child day program that (i) serves only dependent children of military personnel and (ii) (a) is located on a military base or federal property or (b) is certified as a family child care provider by a branch of the Armed Forces of the United States. Any branch of the Armed Forces of the United States or its agent, including an installation commander of a military base on which a child day program is located, may assume responsibility for approving or determining which children may be served by the program that is so exempted from licensure.

11. *An out-of-school time program pursuant to § 22.1-289.02 that (i) is affiliated with a national organization with established health and safety requirements; (ii) is in compliance with any health and safety*

requirements established by the national organization described in clause (i); (iii) has adopted standards and requirements relating to staff training and qualifications that are consistent with the Board's regulations relating to staff training requirements and qualifications; (iv) requires all applicants for employment, employees, applicants to serve as volunteers, and volunteers to undergo a background check in accordance with § 22.1-289.039 and, if applicable, in accordance with the provisions of § 22.1-289.040; and (v) has policies and procedures relating to emergency preparedness and response, child abuse prevention and response, and internal incident reporting and investigation. If there is a conflict between any of the health and safety requirements established by the national organization or any other standards, requirements, policies, or procedures adopted by the out-of-school time program and the Board's regulations, the Board shall conduct an internal review process and consult with the out-of-school time program provider to ensure substantial compliance with the Board's regulations.

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, or 11, shall:

1. File with the Superintendent 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 Superintendent 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.

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, or 11 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

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

E. The Superintendent 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 Superintendent.

2. That the Superintendent of Public Instruction, in partnership with the Secretary of Education, shall establish a work group to review health and safety expectations for out-of-school time programs, as defined in § 22.1-289.02 of the Code of Virginia, as amended by this act. Specifically, the work group shall make recommendations to (i) reduce regulations while ensuring that all school-age children enrolled in out-of-school time programs are kept healthy and safe; (ii) ensure fairness as it relates to which out-of-school time programs are required to be licensed and which are exempt pursuant to subdivision B 11 of § 22.1-289.030 of the Code of Virginia, as amended by this act; and (iii) implement changes in a way that does not jeopardize services for school-age children enrolled in out-of-school time programs. The work group shall include representatives of school divisions, 21st Century Community Learning Center grantees, private child care providers, the Virginia Partnership for Out-of-School Time, local parks and recreation entities, the YMCA, Communities in Schools, Boys and Girls Clubs, and other organizations that provide out-of-school time programming. The work group shall report its findings and recommendations to the Governor and the Chairmen of the House Committee on Education and the Senate Committee on Education and Health by December 1, 2025.