

January 22, 2014

Virginia Child Care Background Check Legislation

Basic Background (HB 552 & HB 412 –to be rolled together, & SB 639)

Every week throughout Virginia, parents of young children need child care in order to go to work. There are nearly 390,000 children under age 6 in Virginia whose parents are working. National polling shows that parents are concerned about the safety of their children as well as the quality and cost of child care.

There are 45,752 children under age 6 whose parents are active duty military; 6,055 children under age 6 whose parents are in the Guard or Reserve. If these parents are lucky enough to find on-base care, the military requires a background check using fingerprints. But, if they use off-base care, the background check is only as good as the state requires. In Virginia, that's just a name check.

Safety starts with a background check for child care providers to ensure that children are not in the care of someone with a violent history.

Current Law in Virginia: Child care providers are required to have a background check, however, such checks are not based on fingerprints. While current law requires a check against the state's child abuse registry, it does not require a check of the state sex offender registry. What's the difference between a name check and a fingerprint check? Several aliases. With a name check, you may miss an alias or a different spelling of the same name (i.e., Elizabeth can be spelled with a "z" or an "s"). A fingerprint check against state and federal records, a check of the child abuse registry and a check of the sex offender registry ensures that those with a history of violent offenses will be screened out from working in licensed or regulated programs or operating child care from their homes.

VA Border States Require Fingerprint Checks: Maryland, D.C., North Carolina, Tennessee and West Virginia require fingerprint checks for child care providers. Only Kentucky stands out, like Virginia, where no fingerprint checks are required.

Children Whose Care is Paid for with a Child Care Subsidy

In May, the U.S. Department of Health and Human Services proposed revised child care regulations, which will require improvements in state health and safety policy to better protect children. Those regulations include a requirement for a comprehensive background check for child care providers caring for unrelated children who receive a federal subsidy. The public comment period with regard to the proposed regulations ended in August and it is expected that final regulations will be released in the next few months. It makes little sense to operate two child care systems: one requiring a fingerprint check for children whose care is paid for with a subsidy and one for the majority of children where a name check continues to be used.

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Delegate Richard Anderson, Delegate Eileen Filler-Corn and Senator Emmett Hanger have introduced legislation to create a work group to develop a plan for the implementation of a national fingerprint-based background check system for child care providers in Virginia. The work group will review current state and federal laws and regulations governing criminal history background checks and make recommendations by November 1, 2014. This legislation puts Virginia on the road to child care safety.