



**ODACS Response to the Governor's Recommendations  
for Senate Bill 1239  
March 29, 2017**

**ODACS urges the General Assembly to reject the governor's recommendations and to support the conference substitute for SB 1239.**

**Conference Version**

Repeals Section 63.2-1716 of Virginia Code. This is the code section that for decades has been used to target Religious Exempt daycare centers with more and stricter requirements than the State applies to other license exempt entities. (*Line 435*)

**Governor's Version**

Reinstates Section 63.2-1716 of Virginia Code. A vote for the governor's recommendations is a vote to continue the unequal treatment of Religious Exempt daycare centers under the law. (*Lines 140, 198-295*)

**Conference Version**

Places Religious Exempt daycare centers on an equal playing field with other license exempt entities in an updated list of exemptions. (*Lines 184-187*)

**Governor's Version**

Makes the Religious Exemption, unlike the other exemptions, "pursuant to" a separate and lengthy section of code. (*Line 140*)

**Rationale**

- During the 2016 summer Study Group meetings that led to the drafting of Senate Bill 1239, ODACS argued repeatedly for the status quo; in other words, ODACS argued in favor of no bill at all, believing that any bill would inevitably increase the unequal treatment of Religious Exempt centers by disproportionately adding new requirements to Section 63.2-1716. Our pleas were ignored, and our concerns were realized in the initial draft of Senate Bill 1239.
- Despite the realization of our concerns, and because of the evident momentum in favor of passage of Senate Bill 1239, and because of unprecedented access afforded for ODACS to Senator Hanger's office, we supported the bill from the beginning in hopes that we would be able to negotiate as friendly an outcome as possible.
- Our negotiations were successful to a degree; we were able to secure some important protections, and we were also able to agree to several new requirements. However, ODACS feels that the following concerns that we have voiced repeatedly in this process have been largely ignored.
  - Recent data collected by DSS documents that a founded case of child abuse is far less likely to occur in a Religious Exempt Center than in a licensed center. **In other words, Religious Exempt centers are among the safest in Virginia, if not the safest!** No effort has been made by the state to prove otherwise, but much of the rhetoric surrounding the child care safety issue is crafted to lead people to conclude that Religious Exempt centers are unsafe and therefore in need of stricter requirements. <http://www.vaodacs.com/assets/Uploads/PDF-Files/Lobbying-State-Government/Virginia-Child-Abuse-Safety-Gap.pdf>
  - Neither SB 1239 nor HB 1568 (the Fingerprint Bill) does anything to address the dozens of tragedies that have occurred in Virginia's unlicensed day homes. Nevertheless, these tragedies are being used as a pretext to disproportionately target Religious Exempt centers for new requirements.
  - **For the state to license any ministry of a church is to violate the principle of Separation of Church and State. Furthermore, to apply requirements that amount to licensure in effect is equally a violation of that principle.** Had ODACS agreed to all of the DSS recommendations that were made last summer in the study group, we would have become subject to licensure in effect. **The conference version of SB 1239 moves Virginia further away from such a violation; the governor's recommendations move Virginia closer to such a violation!**