

Tough Penalties for Child Care Providers who Circumvent Child Care Licensing: Joseph's Law

January 2017



Joseph's Law

In 2016, the General Assembly passed legislation to invoke a Class 4 felony offense for individuals who knowingly operate a child care program without a license, which results in the death or serious injury of a child.

A Class 4 felony is punishable by up to 10 years in prison and a fine of up to \$100,000. The new law is named after Joseph Allen, a one-year old child who died as a result of a fire in an unlicensed child care home in Chesterfield in October 2014.

Background: Lynchburg and Richmond fires in 2014 resulted in the deaths of 3 babies

In September of 2014, a fire broke out in a home-based child care business in Lynchburg. The home provider was not licensed and a toddler and an infant died.

In October of 2014, a fire broke out in a home-based child care business in Chesterfield. The home provider was not licensed and her multiple negligent acts resulted in the death of an infant in her care.

In both the Lynchburg and Chesterfield cases, the child care providers should have been licensed (*i.e., in Lynchburg the provider was caring for 7 children and in Chesterfield the provider was caring for 8 children*). A state license is required when 5 or more unrelated children are in the care of a provider. (*In July of 2016, a new Virginia law reduced the licensing threshold from 6 unrelated children to 5 in order to promote child safety*).



Joseph Matthew Allen died in October 2014 in the care of an unlicensed child care provider.

Prior to 2016, the VA statutes were insufficient to enable Commonwealth Attorneys to charge illegally operating providers with a felony -- even when children died in their care. Providers could be charged with a misdemeanor, however, that was more like a slap on the wrist, than a deterrent to offering illegal care or a punishment for acting negligently when a child dies.

As of January 2017, two providers (one in Virginia Beach and one in Chesterfield) have been charged under Joseph's Law. Both providers had been caring for children far in excess of the state licensing law and children died in their care.

Child Care Aware of Virginia:

Child Care Aware of Virginia supports a tough penalty both as a deterrent to stop the illegal provision of child care and to impose a felony charge when a child dies or is seriously injured due to negligence.