

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 633

Introduced by Assembly Member Benoit

February 17, 2005

An act to amend Sections 1596.859, 1596.8595, 1596.8895, and 1597.05 of the Health and Safety Code, relating to child day care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 633, as amended, Benoit. Child day care facilities: licensing.

(1) The California Child Day Care Facilities Act provides for the licensing and regulation of child day care facilities, including day care centers, by the State Department of Social Services. The act makes it a misdemeanor to willfully or repeatedly violate certain provisions or certain rules or regulations.

The act requires each licensed child day care facility to make accessible to the public a copy of any licensing report pertaining to the facility that documents a facility visit or a substantiated complaint investigation.

This bill would require each licensed child day care facility to make accessible to the public a copy of any licensing report or other public licensing document pertaining to the facility that documents a facility visit, a substantiated complaint investigation, a conference with a local licensing agency management representative and the licensee in which issues of noncompliance are discussed, or a copy of an accusation indicating the department's intent to revoke the facility's license. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(2) The act requires every child care resource and referral program and every alternative payment program to advise every person who requests a child care referral of his or her right to the licensing information of a licensed child day care facility required to be maintained at the facility and to access any public files pertaining to the facility that are maintained by the State Department of Social Services Community Care Licensing Division. The act prescribes the text of a written or oral advisement that will comply with those requirements.

This bill would revise the text of the advisement that will comply with those requirements.

(3) When the department establishes a date for a licensee to correct a deficiency, the act requires the department to provide the licensee with a licensing report or other document verifying compliance or noncompliance. The act authorizes a licensee to make that documentation available to the public.

This bill would require the licensee to make that documentation available to the public.

(4) The act requires each licensed child day care facility to post certain documents and makes failure to comply with posting requirements subject to a civil penalty of \$100.

When a local licensing agency management representative conducts a conference with the licensee of a child day care facility in which issues of noncompliance are discussed, or serves an accusation indicating intent to revoke the license, this bill would require the facility to immediately, upon receipt, post the licensing documents pertaining to the conference or accusation. The bill would require a failure to comply with posting requirements to result in an immediate civil penalty of \$100.

The bill would also require a licensed child day care facility to provide to the parents or guardians of each child receiving services in the facility copies of any licensing report that documents a complaint investigation that results in a citation for a violation that, if not corrected, will create a direct and immediate risk to the health, safety, or personal rights of children in care and copies of any licensing document pertaining to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed. Upon enrollment of a new child in a facility, the bill would require the licensee to provide to the parents or guardians of the newly enrolling child copies of any licensing report

or document that the licensee has received during the prior 12 month period pertaining to the above type of complaint investigation or conference. The bill would require the licensee to require each recipient of the above reports and documents to sign a statement indicating that he or she has received the document and the date it was received, and to keep verification of receipt in each child's file.

(5) Whenever the director temporarily suspends the license, registration, or special permit of a child day care facility, the act requires the director or the local licensing agency to send written notification to the parent or guardian of each child receiving services in the facility and to post a written notice of the temporary suspension at the facility in a place readily visible and accessible to the parents or guardians of children receiving services at the facility. The act makes removal of the posted notice while the temporary suspension is in effect a violation punishable by a fine of \$500.

Upon receipt of an accusation indicating the department's intent to revoke a facility's license, this bill would require the licensee to provide copies of the accusation to the parent or guardian of each child receiving services in the facility until that accusation is either dismissed or resolved through the administrative hearing process or stipulated agreement. *Upon enrollment of a new child in a facility, the bill would require the licensee to provide to the parents or guardians of the newly enrolling child copies of any accusation that the licensee has received during the prior 12 month period that indicates the department's intent to revoke the facility's license. In both circumstances, the bill would require the licensee to require each recipient of the accusation to sign a statement indicating that he or she has received the document and the date it was received, and to keep verification of receipt in each child's file.*

(6) Within 10 days of employing a facility director, this bill would require a licensee to provide the facility director with a copy of all child care center laws and regulations, and within 90 days, to secure verification that the facility director has completed an orientation given by the department.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1596.859 of the Health and Safety Code
2 is amended to read:
3 1596.859. (a) (1) Each licensed child day care facility shall
4 make accessible to the public a copy of any licensing report or
5 other public licensing document pertaining to the facility that
6 documents a facility visit, a substantiated complaint
7 investigation, a conference with a local licensing agency
8 management representative and the licensee in which issues of
9 noncompliance are discussed, or a copy of an accusation
10 indicating the department’s intent to revoke the facility’s license.
11 An individual licensing report and other licensing documents
12 shall not be required to be maintained beyond three years from
13 the date of issuance, and shall not include any information that
14 would not have been accessible to the public through the State
15 Department of Social Services Community Care Licensing
16 Division.
17 (2) (A) Every child care resource and referral program
18 established pursuant to Article 2 (commencing with Section
19 8210) of Chapter 2 of Part 6 of the Education Code, and every
20 alternative payment program established pursuant to Article 3
21 (commencing with Section 8220) of Chapter 2 of Part 6 of the
22 Education Code shall advise every person who requests a child
23 care referral of his or her right to the licensing information of a
24 licensed child day care facility required to be maintained at the
25 facility pursuant to this section and to access any public files
26 pertaining to the facility that are maintained by the State
27 Department of Social Services Community Care Licensing
28 Division.
29 (B) A written or oral advisement in substantially the
30 following form will comply with the requirements of
31 subparagraph (A):
32 “State law requires licensed child day care facilities to make
33 accessible to the public a copy of any licensing report or other
34 public licensing document pertaining to the facility that
35 documents a facility visit, a substantiated complaint

1 investigation, a conference with a local licensing agency
2 management representative and the licensee in which issues of
3 noncompliance are discussed, or a copy of an accusation
4 indicating the department’s intent to revoke the facility’s license.
5 In addition, a more complete file regarding a child care licensee
6 may be available at an office of the State Department of Social
7 Services Community Care Licensing Division. You have the
8 right to access any public information in these files.”

9 (b) Within 30 days after the date specified by the department
10 for a licensee to correct a deficiency, the department shall
11 provide the licensee with a licensing report or other appropriate
12 document verifying compliance or noncompliance.
13 Notwithstanding any other provision of law, and with good
14 cause, the department may provide the licensee with an alternate
15 timeframe for providing the licensing report or other appropriate
16 document verifying compliance or noncompliance. If the
17 department provides the licensee with an alternate timeframe, it
18 shall also provide the reasons for the alternate timeframe, in
19 writing. The licensee shall make this documentation available to
20 the public.

21 SEC. 2. Section 1596.8595 of the Health and Safety Code is
22 amended to read:

23 1596.8595. (a) (1) Each licensed child day care facility shall
24 post a copy of any licensing report pertaining to the facility that
25 documents either a facility visit or a complaint investigation that
26 results in a citation for a violation that, if not corrected, will
27 create a direct and immediate risk to the health, safety, or
28 personal rights of children in care. The licensing report provided
29 by the department shall be posted immediately upon receipt,
30 adjacent to the postings required pursuant to Section 1596.817
31 and on, or immediately adjacent to, the interior side of the main
32 door to the facility and shall remain posted for 30 consecutive
33 days.

34 (2) A family day care home shall comply with the posting
35 requirements contained in paragraph (1) during the hours when
36 clients are present.

37 (3) Failure to comply with paragraph (1) shall result in an
38 immediate civil penalty of one hundred dollars (\$100).

39 (b) (1) Notwithstanding subdivision (b) of Section 1596.859,
40 the licensee shall post a licensing report or other appropriate

1 document verifying the licensee's compliance or noncompliance
2 with the department's order to correct a deficiency that is subject
3 to posting pursuant to paragraph (1) of subdivision (a). The
4 licensing report or other document shall be posted immediately
5 upon receipt, adjacent to the postings required pursuant to
6 Section 1596.817, on, or immediately adjacent to, the interior
7 side of the main door into the facility and shall be posted for a
8 period of 30 consecutive days.

9 (2) A family day care home shall comply with the posting
10 requirements contained in paragraph (1) during the hours when
11 clients are present.

12 (3) Failure to comply with paragraph (1) shall result in an
13 immediate civil penalty of one hundred dollars (\$100).

14 *(c) (1) A licensed child day care facility shall provide to the*
15 *parents or guardians of each child receiving services in the*
16 *facility copies of any licensing report that documents a complaint*
17 *investigation that results in a citation for a violation that, if not*
18 *corrected, will create a direct and immediate risk to the health,*
19 *safety, or personal rights of children in care.*

20 *(2) Upon enrollment of a new child in a facility, the licensee*
21 *shall provide to the parents or guardians of the newly enrolling*
22 *child copies of any licensing report that the licensee has received*
23 *during the prior 12 month period that documents a complaint*
24 *investigation that results in a citation for a violation that, if not*
25 *corrected, will create a direct and immediate risk to the health,*
26 *safety, or personal rights of children in care.*

27 *(3) The licensee shall require each recipient of the licensing*
28 *report pertaining to a complaint investigation to sign a statement*
29 *indicating that he or she has received the document and the date*
30 *it was received.*

31 *(4) The licensee shall keep verification of receipt in each*
32 *child's file.*

33 *(d) (1) When a local licensing agency management*
34 *representative conducts a conference with the licensee of a child*
35 *day care facility in which issues of noncompliance are discussed,*
36 *or serves an accusation indicating intent to revoke the license, the*
37 *facility shall immediately, upon receipt, post the licensing*
38 *documents pertaining to the conference or accusation, including*
39 *any initial summary document or licensing report issued by the*
40 *department. The documents and licensing reports or accusation*

1 provided by the department shall be posted adjacent to the
2 postings required pursuant to Section 1596.817, on, or
3 immediately adjacent to, the interior side of the main door into
4 the facility and shall be posted for a period of 30 consecutive
5 days.

6 (2) A family day care home shall comply with the posting
7 requirements contained in paragraph (1) during the hours when
8 clients are present.

9 (3) Failure to comply with paragraph (1) shall result in an
10 immediate civil penalty of one hundred dollars (\$100). The
11 department shall adopt procedures for the imposition of the civil
12 penalty.

13 *(e) (1) A licensed child day care facility shall provide to the
14 parents or guardians of each child receiving services in the
15 facility copies of any licensing document pertaining to a
16 conference conducted by a local licensing agency management
17 representative with the licensee in which issues of
18 noncompliance are discussed.*

19 *(2) Upon enrollment of a new child in a facility, the licensee
20 shall provide to the parents or guardians of the newly enrolling
21 child copies of any licensing document that the licensee has
22 received during the prior 12 month period that pertains to a
23 conference conducted by a local licensing agency management
24 representative with the licensee in which issues of
25 noncompliance are discussed.*

26 *(3) The licensee shall require each recipient of the licensing
27 document pertaining to a conference to sign a statement
28 indicating that he or she has received the document and the date
29 it was received.*

30 *(4) The licensee shall keep verification of receipt in each
31 child's file.*

32 SEC. 3. Section 1596.8895 of the Health and Safety Code is
33 amended to read:

34 1596.8895. (a) Whenever the director temporarily suspends
35 the license, registration, or special permit of a child day care
36 facility pursuant to Section 1596.886, the director or the local
37 licensing agency shall send written notification to the parent or
38 guardian of each child receiving services in the facility. The
39 department or the local licensing agency, if there is one, shall
40 also post a written notice of the temporary suspension at the

1 facility in a place readily visible and accessible to the parents or
2 guardians of children receiving services at the facility. Removal
3 of the posted notice while the temporary suspension is in effect is
4 a violation of this chapter punishable by a fine of five hundred
5 dollars (\$500).

6 (b) If a temporary suspension order is not effected within 30
7 days of the filing of an accusation, the director or the local
8 licensing agency shall send written notification that the
9 accusation has been filed to the parent or guardian of each child
10 receiving services in the facility.

11 (c) (1) Upon receipt of an accusation indicating the
12 department's intent to revoke a facility's license, the licensee
13 shall provide copies of the accusation to the parent or guardian of
14 each child receiving services in the facility, ~~including the parent~~
15 ~~or guardian of any new child enrolled in the facility,~~ until that
16 accusation is either dismissed or resolved through the
17 administrative hearing process or stipulated agreement.

18 (2) *Upon enrollment of a new child in a facility, the licensee*
19 *shall provide to the parents or guardians of the newly enrolling*
20 *child copies of any accusation that the licensee has received*
21 *during the prior 12 month period that indicates the department's*
22 *intent to revoke the facility's license.*

23 (3) The licensee shall require each recipient of the accusation
24 to sign a statement indicating that he or she has received the
25 document and the date it was received.

26 ~~(3)~~

27 (4) The licensee shall keep verification of receipt in each
28 child's file.

29 SEC. 4. Section 1597.05 of the Health and Safety Code is
30 amended to read:

31 1597.05. (a) Licensing reviews of a day care center shall be
32 limited to health and safety considerations and shall not include
33 any reviews of the content of any educational or training program
34 of the facility.

35 (b) A licensee shall have 30 days after the employment of a
36 staff person or enrollment of a child to secure records requiring
37 information from sources not in the control of the licensee, staff
38 person, or child. An extension can be granted where the licensee
39 can demonstrate that further delays are beyond the control of the
40 licensee. No additional onsite inspections for the purpose of

1 checking completion of the designated records shall be made
2 during the 30-day period.

3 “Records,” for the purposes of this subdivision, mean those
4 types of records requiring information from sources not in the
5 control of the facilities, and include, but are not limited to, all of
6 the following:

7 (1) Physical examination reports by physicians and surgeons.

8 (2) Confirmation of required immunizations.

9 (3) Submission of official data describing the educational
10 qualifications of the facility staff.

11 (c) (1) Within 10 days of employing a facility director, a
12 licensee shall provide the facility director with a copy of all child
13 care center laws and regulations.

14 (2) Within 90 days of employing a facility director, a licensee
15 shall secure verification that the facility director has completed
16 an orientation given by the department and shall maintain a copy
17 of that verification.

18 SEC. 5. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the
23 penalty for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition of a
25 crime within the meaning of Section 6 of Article XIII B of the
26 California Constitution.