

AMENDED IN SENATE MAY 27, 2010

SENATE BILL

No. 1214

Introduced by Senator Wolk

February 18, 2010

An act to amend ~~Sections 1516 and~~ *Section 1526.8 of, to amend and add Section 1516 of,* and to amend and repeal Section 1596.972 of, the Health and Safety Code, and to amend Sections 11400.1, *11402,* and 11462.7 of, ~~and to amend and repeal Section 11402 of,~~ the Welfare and Institutions Code, relating to crisis nurseries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1214, as amended, Wolk. Crisis nurseries.

Existing law provides for the licensure and regulation by the State Department of Social Services of community care facilities, including facilities that provide care for children. Violation of the provisions relating to community care facilities is a misdemeanor.

Existing law includes a crisis nursery, as defined, within the provisions regulating a community care facility. Existing law removes crisis nurseries from these provisions on July 1, 2011.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which, pursuant to a combination of federal, state, and county funds, aid on behalf of eligible children is paid to foster care providers.

Existing law includes a crisis nursery among the facilities eligible to receive reimbursement under the above program when a child is placed in such a facility. Existing law requires the department, to the extent that federal financial participation is available, to set a foster care rate for crisis nurseries. Existing law removes crisis nurseries from these provisions on July 1, 2011.

This bill would, as of July 1, 2012, change the definition of crisis nursery for this purpose to include only facilities that accept voluntary placements, as defined, and not placements by county child welfare services.

This bill would delete the July 1, 2011, date from the provisions described above relating to crisis nurseries, thus indefinitely including a crisis nursery within the definition of a community care facility, and among facilities eligible to receive reimbursement under the AFDC-FC program that relate to volunteers in crisis nurseries and the provisions specifying the exemptions from the crisis nursery provisions, thus extending their duration. The bill would extend the repeal date on other provisions relating to crisis nurseries until July 1, 2012, including the provisions authorizing children placed in crisis nurseries to receive AFDC-FC reimbursement. By indefinitely extending inclusion of a crisis nursery in the definition of a community care facility, the bill would impose a state-mandated local program, by extending the expansion of a crime.

Existing law continuously appropriates moneys from the General Fund to pay for a share of the cost of AFDC-FC payments.

This bill would, instead, provide that the continuous appropriation would not be made for purposes of implementing the bill.

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 1516 of the Health and Safety Code is
- 2 amended to read:
- 3 1516. (a) For purposes of this chapter, "crisis nursery" means
- 4 a facility licensed by the department pursuant to subdivision (j) to
- 5 provide short-term, 24-hour nonmedical residential care and
- 6 supervision for children under six years of age, who are either
- 7 voluntarily placed for temporary care by a parent or legal guardian
- 8 due to a family crisis or a stressful situation, for no more than 30
- 9 days or, except as provided in subdivision (e), who are temporarily

1 placed by a county child welfare service agency for no more than
2 14 days.

3 (b) Crisis nurseries shall be organized and operated on a
4 nonprofit basis by private nonprofit corporations or nonprofit
5 public benefit corporations.

6 (c) “Voluntary placement,” for purposes of this section, means
7 a child, who is not receiving Aid to Families with Dependent
8 Children-Foster Care, placed by a parent or legal guardian who
9 retains physical custody of, and remains responsible for, the care
10 of his or her children who are placed for temporary emergency
11 care, as described in subdivision (a).

12 (d) A crisis nursery may also provide temporary emergency
13 care to children under six years of age who have been taken into
14 the protective custody of, or are placed directly by, the county
15 child welfare services system that has assumed responsibility for
16 the care of the children.

17 (e) County placements, as described in subdivision (d), shall be
18 limited to no more than one-third of a crisis nursery’s licensed
19 capacity. The length of stay for a county-placed child shall not
20 exceed 14 days unless the State Department of Social Services
21 issues an exception.

22 (f) (1) Except as provided in paragraph (2), the maximum
23 licensed capacity for crisis nursery programs shall be 14.

24 (2) Any facility licensed on or before January 1, 2004, as a
25 group home for children under the age of six years with a licensed
26 capacity greater than 14, but less than 21, that provides crisis
27 nursery services shall be allowed to retain its capacity if issued a
28 crisis nursery license until the time there is a change in the
29 licensee’s program, location, or client population.

30 (g) (1) Each crisis nursery shall submit, in a format specified
31 by the department, a monthly report indicating the total number
32 of children placed in the program, designating whether each child
33 is voluntarily placed by the parents or legal guardians or placed
34 directly by county child welfare services and the length of stay
35 and age for each child.

36 (2) Each crisis nursery that accepts children placed directly by
37 a county child welfare services agency also shall annually provide
38 a summary report to the department within 60 days of the
39 subsequent calendar year. This report shall indicate the total
40 number of children placed directly by a county child welfare

1 services agency, the length of stay and age for each child, the
2 average length of stay for all of the children placed directly by the
3 county, and the reasons given by the county for the use of the crisis
4 nursery for these children.

5 (3) When placing a child in a crisis nursery, a county child
6 welfare agency shall inform the crisis nursery of the reason for the
7 selection of the crisis nursery as the placement choice.

8 (h) Notwithstanding Section 1596.80, a crisis nursery may
9 provide child day care services for children under the age of six
10 years at the same site as the crisis nursery. A child may not receive
11 child day care services at a crisis nursery for more than 30 calendar
12 days in a six-month period unless the department issues an
13 exception. A child who is receiving child day care services shall
14 be counted in the licensed capacity. A child who is receiving child
15 day care services, and who is a county placement, as described in
16 subdivision (d), shall be counted in the limitation on county
17 placements specified in subdivision (e).

18 (i) Exceptions to group home licensing regulations pursuant to
19 subdivision (c) of Section 84200 of Title 22 of the California Code
20 of Regulations, in effect on August 1, 2004, for county-operated
21 or county-contracted emergency shelter care facilities that care for
22 children under the age of six years for no more than 30 days, shall
23 be contained in regulations for crisis nurseries.

24 (j) The department may issue a license pursuant to this section
25 only to a facility that meets one of the following conditions:

26 (1) The facility is operating, or has an application on file with
27 the department to operate as of September 1, 2004, as a group
28 home for children under six years of age in any of the following
29 counties:

30 (A) Contra Costa.

31 (B) Nevada.

32 (C) Placer.

33 (D) Sacramento.

34 (E) San Joaquin.

35 (F) Stanislaus.

36 (G) Yolo.

37 (2) The facility, pursuant to standards developed by the
38 department by regulation, meets an urgent, significant, and unmet
39 need for temporary respite care of children under the age of six
40 years.

1 (3) The facility offers temporary emergency shelter and services
2 only to children under the age of six years who are voluntarily
3 placed by a parent or guardian, as set forth in subdivision (c), and
4 the facility does not accept county placements, as set forth in
5 subdivision (d).

6 *(k) This section shall remain in effect only until July 1, 2012,*
7 *and as of that date is repealed, unless a later enacted statute, that*
8 *is enacted before July 1, 2012, deletes or extends that date.*

9 SEC. 2. Section 1516 is added to the Health and Safety Code,
10 to read:

11 1516. (a) For purposes of this chapter, “crisis nursery” means
12 a facility licensed by the department to provide short-term, 24-hour
13 nonmedical residential care and supervision for children under
14 six years of age, who are voluntarily placements, as defined in
15 subdivision (c), for temporary care due to a family crisis or
16 stressful situation for no more than 30 days.

17 (b) A crisis nursery shall be organized and operated on a
18 nonprofit basis by either a private nonprofit corporation or a
19 nonprofit public benefit corporation.

20 (c) “Voluntary placement,” for purposes of this section, means
21 a child, who is placed for temporary care in a crisis nursery
22 program by a parent or legal guardian who retains physical
23 custody of, and remains responsible for, the care of his or her child
24 or by a relative or by another adult who is responsible for the
25 child’s day-to-day care and supervision. Voluntary placement does
26 not include a child who is placed in a crisis nursery program
27 directly by a county child welfare services agency.

28 (d) (1) Except as provided in paragraph (2), the maximum
29 licensed capacity for a crisis nursery program shall be 14.

30 (2) A facility licensed on or before January 1, 2004, as a group
31 home for children under the age of six years with a licensed
32 capacity greater than 14, but less than 21, that provides crisis
33 nursery services shall be allowed to retain its capacity if issued a
34 crisis nursery license until there is a change in the licensee’s
35 program, location, or client population.

36 (e) Each crisis nursery shall collect and maintain information,
37 in a format specified by the department, indicating the total number
38 of children placed in the program, the length of stay for each child,
39 and the age of each child. This information shall be made available
40 to the department upon request.

1 (f) Notwithstanding Section 1596.80, a crisis nursery may
2 provide child day care services for children under the age of six
3 years at the same site as the crisis nursery. A child may not receive
4 child day care services at a crisis nursery for more than 30
5 calendar days in a six-month period unless the department issues
6 an exception. A child who is receiving child day care services shall
7 be counted in the licensed capacity.

8 (g) Exceptions to group home licensing regulations pursuant
9 to subdivision (c) of Section 84200 of Title 22 of the California
10 Code of Regulations, in effect on August 1, 2004, for
11 county-operated or county-contracted emergency shelter care
12 facilities that care for children under the age of six years for no
13 more than 30 days, shall be contained in regulations for crisis
14 nurseries.

15 (h) This section shall become operative on July 1, 2012.

16 ~~SEC. 2.~~

17 SEC. 3. Section 1526.8 of the Health and Safety Code is
18 amended to read:

19 1526.8. (a) It is the intent of the Legislature that the department
20 develop modified staffing levels and requirements for crisis
21 nurseries, provided that the health, safety, and well-being of the
22 children in care are protected and maintained.

23 (b) The department shall allow the use of fully trained and
24 qualified volunteers as caregivers in a crisis nursery, subject to the
25 following conditions:

26 (1) Volunteers shall be fingerprinted for the purpose of
27 conducting a criminal record review as specified in subdivision
28 (b) of Section 1522.

29 (2) Volunteers shall complete a child abuse central index check
30 as specified in Section 1522.1.

31 (3) Volunteers shall be in good physical health and be tested
32 for tuberculosis not more than one year prior to, or seven days
33 after, initial presence in the facility.

34 (4) Prior to assuming the duties and responsibilities of a crisis
35 caregiver or being counted in the staff-to-child ratio, volunteers
36 shall complete at least eight hours of initial training divided as
37 follows:

38 (A) Four hours of crisis nursery job shadowing.

39 (B) Two hours of review of community care licensing
40 regulations.

1 (C) Two hours of review of the crisis nursery program, including
2 the facility mission statement, goals and objectives, and special
3 needs of the client population they serve.

4 (5) Within 90 days, volunteers who are included in the
5 staff-to-child ratios shall complete at least 20 hours of training
6 divided as follows:

7 (A) Twelve hours of pediatric first aid and pediatric
8 cardiopulmonary resuscitation.

9 (B) Eight hours of child care health and safety issues.

10 (6) Volunteers who meet the requirements of paragraphs (1),
11 (2), and (3), but who have not completed the training specified in
12 paragraph (4) or (5) may assist a fully trained and qualified staff
13 person in performing child care duties. However, these volunteers
14 shall not be left alone with children, shall always be under the
15 direct supervision and observation of a fully trained and qualified
16 staff person, and shall not be counted in meeting the minimum
17 staff-to-child ratio requirements.

18 (c) The department shall allow the use of fully trained and
19 qualified volunteers to be counted in the staff-to-child ratio in a
20 crisis nursery subject to the following conditions:

21 (1) The volunteers have fulfilled the requirements in paragraphs
22 (1) to (4), inclusive, of subdivision (b).

23 (2) There shall be at least one fully qualified and employed staff
24 person on site at all times.

25 (3) (A) There shall be at least one employed staff or volunteer
26 caregiver for each group of three children, or fraction thereof, from
27 7 a.m. to 7 p.m.

28 (B) There shall be at least one paid caregiver or volunteer
29 caregiver for each group of four children, or fraction thereof, from
30 7 p.m. to 7 a.m.

31 (C) There shall be at least one employed staff person present
32 for every volunteer caregiver used by the crisis nursery for the
33 purpose of meeting the minimum caregiver staffing requirements.

34 (d) There shall be at least one staff person or volunteer caregiver
35 awake at all times from 7 p.m. to 7 a.m.

36 ~~SEC. 3.~~

37 *SEC. 4.* Section 1596.792 of the Health and Safety Code, as
38 amended by Section 4 of Chapter 288 of the Statutes of 2007, is
39 amended to read:

1 1596.792. This chapter, Chapter 3.5 (commencing with Section
2 1596.90), and Chapter 3.6 (commencing with Section 1597.30)
3 do not apply to any of the following:

- 4 (a) Any health facility, as defined by Section 1250.
- 5 (b) Any clinic, as defined by Section 1202.
- 6 (c) Any community care facility, as defined by Section 1502.
- 7 (d) Any family day care home providing care for the children
8 of only one family in addition to the operator's own children.
- 9 (e) Any cooperative arrangement between parents for the care
10 of their children when no payment is involved and the arrangement
11 meets all of the following conditions:

12 (1) In a cooperative arrangement, parents shall combine their
13 efforts so that each parent, or set of parents, rotates as the
14 responsible caregiver with respect to all the children in the
15 cooperative.

16 (2) Any person caring for children shall be a parent, legal
17 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of
18 at least one of the children in the cooperative.

19 (3) There can be no payment of money or receipt of in-kind
20 income in exchange for the provision of care. This does not prohibit
21 in-kind contributions of snacks, games, toys, blankets for napping,
22 pillows, and other materials parents deem appropriate for their
23 children. It is not the intent of this paragraph to prohibit payment
24 for outside activities, the amount of which may not exceed the
25 actual cost of the activity.

26 (4) No more than 12 children are receiving care in the same
27 place at the same time.

28 (f) Any arrangement for the receiving and care of children by
29 a relative.

30 (g) Any public recreation program. "Public recreation program"
31 means a program operated by the state, city, county, special district,
32 school district, community college district, chartered city, or
33 chartered city and county that meets either of the following criteria:

34 (1) The program is operated only during hours other than normal
35 school hours for kindergarten and grades 1 to 12, inclusive, in the
36 public school district where the program is located, or operated
37 only during periods when students in kindergarten and grades 1
38 to 12, inclusive, are normally not in session in the public school
39 district where the program is located, for either of the following
40 periods:

1 (A) For under 16 hours per week.

2 (B) For a total of 12 weeks or less during a 12-month period.

3 This total applies to any 12 weeks within any 12-month period,
4 without regard to whether the weeks are consecutive.

5 In determining “normal school hours” or periods when students
6 are “normally not in session,” the State Department of Social
7 Services shall, when appropriate, consider the normal school hours
8 or periods when students are normally not in session for students
9 attending a year-round school.

10 (2) The program is provided to children who are over the age
11 of four years and nine months and not yet enrolled in school and
12 the program is operated during either of the following periods:

13 (A) For under 16 hours per week.

14 (B) For a total of 12 weeks or less during a 12-month period.
15 This total applies to any 12 weeks within any 12-month period,
16 without regard to whether the weeks are consecutive.

17 (3) The program is provided to children under the age of four
18 years and nine months with sessions that run 12 hours per week
19 or less and are 12 weeks or less in duration. A program subject to
20 this paragraph may permit children to be enrolled in consecutive
21 sessions throughout the year. However, the program shall not
22 permit children to be enrolled in a combination of sessions that
23 total more than 12 hours per week for each child.

24 (h) Extended day care programs operated by public or private
25 schools.

26 (i) Any school parenting program or adult education child care
27 program that satisfies both of the following:

28 (1) Is operated by a public school district or operated by an
29 individual or organization pursuant to a contract with a public
30 school district.

31 (2) Is not operated by an organization specified in Section
32 1596.793.

33 (j) Any child day care program that operates only one day per
34 week for no more than four hours on that one day.

35 (k) Any child day care program that offers temporary child care
36 services to parents and that satisfies both of the following:

37 (1) The services are only provided to parents and guardians who
38 are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

~~SEC. 4.~~

SEC. 5. Section 1596.792 of the Health and Safety Code, as amended by Section 5 of Chapter 288 of the Statutes of 2007, is repealed.

~~SEC. 5.~~

SEC. 6. Section 11400.1 of the Welfare and Institutions Code is amended to read:

11400.1. ~~For (a)~~ For purposes of this article, “crisis nursery” means a facility licensed to provide short-term, 24-hour nonmedical residential care and supervision for children under six years of age who are either voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation for no more than 30 days or, except as provided in subdivision (e) of Section 1516 of the Health and Safety Code, who are temporarily

1 placed by a county child welfare service agency for no more than
2 14 days.

3 *(b) This section shall remain in effect only until July 1, 2012,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before July 1, 2012, deletes or extends that date.*

6 ~~SEC. 6.~~

7 SEC. 7. Section 11402 of the Welfare and Institutions Code,
8 as amended by Section 7 of Chapter 288 of the Statutes of 2007,
9 is amended to read:

10 11402. In order to be eligible for AFDC-FC, a child shall be
11 placed in one of the following:

12 (a) The approved home of a relative, provided the child is
13 otherwise eligible for federal financial participation in the
14 AFDC-FC payment.

15 (b) (1) The licensed family home of a nonrelative.

16 (2) The approved home of a nonrelative extended family
17 member as described in Section 362.7.

18 (c) A licensed group home, as defined in subdivision (h) of
19 Section 11400, provided that the placement worker has documented
20 that the placement is necessary to meet the treatment needs of the
21 child and that the facility offers those treatment services.

22 (d) The home of a nonrelated legal guardian or the home of a
23 former nonrelated legal guardian when the guardianship of a child
24 who is otherwise eligible for AFDC-FC has been dismissed due
25 to the child's attaining 18 years of age.

26 (e) An exclusive-use home.

27 (f) A licensed transitional housing placement facility, as
28 described in Section 1559.110 of the Health and Safety Code, and
29 as defined in Section 11400.

30 (g) An out-of-state group home, provided that the placement
31 worker, in addition to complying with all other statutory
32 requirements for placing a minor in an out-of-state group home,
33 documents that the requirements of Section 7911.1 of the Family
34 Code have been met.

35 (h) A licensed crisis nursery, as described in Section 1516 of
36 the Health and Safety Code, and as defined in subdivision (a) of
37 Section 11400.1.

38 *(i) This section shall remain in effect only until July 1, 2012,*
39 *and as of that date is repealed, unless a later enacted statute, that*
40 *is enacted before July 1, 2012, deletes or extends that date.*

1 ~~SEC. 7. Section 11402 of the Welfare and Institutions Code,~~
2 ~~as amended by Section 8 of Chapter 288 of the Statutes of 2007,~~
3 ~~is repealed.~~

4 *SEC. 8. Section 11402 of the Welfare and Institutions Code,*
5 *as amended by Section 8 of Chapter 288 of the Statutes of 2007,*
6 *is amended to read:*

7 11402. In order to be eligible for AFDC-FC, a child shall be
8 placed in one of the following:

9 (a) The approved home of a relative, provided the child is
10 otherwise eligible for federal financial participation in the
11 AFDC-FC payment.

12 (b) (1) The licensed family home of a nonrelative.

13 (2) The approved home of a nonrelative extended family
14 member as described in Section 362.7.

15 (c) A licensed group home, as defined in subdivision (h) of
16 Section 11400, provided that the placement worker has documented
17 that the placement is necessary to meet the treatment needs of the
18 child and that the facility offers those treatment services.

19 (d) The home of a nonrelated legal guardian or the home of a
20 former nonrelated legal guardian when the guardianship of a child
21 who is otherwise eligible for AFDC-FC has been dismissed due
22 to the child's attaining 18 years of age.

23 (e) An exclusive-use home.

24 (f) A licensed transitional housing placement facility as
25 described in Section 1559.110 of the Health and Safety Code and
26 as defined in Section 11400.

27 (g) An out-of-state group home, provided that the placement
28 worker, in addition to complying with all other statutory
29 requirements for placing a minor in an out-of-state group home,
30 documents that the requirements of Section 7911.1 of the Family
31 Code have been met.

32 (h) This section shall become operative on July 1, ~~2011~~ 2012.

33 ~~SEC. 8.~~

34 *SEC. 9. Section 11462.7 of the Welfare and Institutions Code*
35 *is amended to read:*

36 11462.7. (a) To the extent federal financial participation is
37 available, the department shall set a foster care rate for crisis
38 nurseries, as defined in Section 1516 of the Health and Safety Code
39 and subdivision (t) of Section 11400.

(b) The rate structure required to implement this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted to implement this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

(c) Until the department adopts emergency regulations for establishing a rate for crisis nurseries, the rates shall be established using the foster care ratesetting system for group homes and subject to all of the requirements of Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9.

(d) Volunteers shall not be included in staff-to-child ratios used in the rate level determination.

(e) *This section shall remain in effect only until July 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2012, deletes or extends that date.*

~~SEC. 9.~~

~~SEC. 10.~~ No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of implementing this act.

~~SEC. 10.~~

~~SEC. 11.~~ No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.