

AMENDED IN ASSEMBLY JUNE 16, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 309

Introduced by Senator Liu

February 14, 2011

An act to ~~amend Sections 1596.75 and 1596.750 of~~ *add Section 1596.862* to the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 309, as amended, Liu. Child day care facilities: youth with disabilities.

Existing law, the California Child Day Care Facilities Act, administered by the State Department of Social Services, provides for the licensure and regulation of child day care facilities, as defined. Willful or repeated violation of these provisions is a misdemeanor. The act defines a child as a person who is under 18 years of age who is being provided care and supervision in a child day care facility, with specified exceptions. Under existing law, a child day care facility is authorized to provide nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

Existing law provides for educational programs for persons with exceptional needs. Existing law includes within the definition of an individual with special needs a person between 19 and 21 years of age, who is enrolled in or eligible for a special education program prior to his or her 19th birthday, and who has not yet completed his or her

prescribed course of study, has not met proficiency standards, or has not graduated from high school with a regular high school diploma. Existing law provides that a person who becomes 22 years of age during the months of January to June, inclusive, while participating in one of these special education programs, as specified, may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to specified state and federal law.

~~This bill would provide that for purposes of the California Child Day Care Facilities Act, an individual with developmental disabilities between 18 and 22 years of age who is still enrolled in school and who has an individual education plan (IEP) or an individual transition plan would be within the definition of a child. The bill would provide that an individual who satisfies these criteria would be classified as “schoolage” for purposes of a child day care facility with a schoolage child care center license, as defined, and would be eligible to continue his or her services through programs with the specified license. The bill would also require, for these purposes, that an indoor activity space provided for middle school, high school, and transition age youth to be physically separated from the space provided for younger, schoolage participants authorize a child day care facility licensed as a schoolage child care center to provide nonmedical care to an individual who has been determined by a regional center for persons with developmental disabilities to have a developmental disability, if specified conditions are met.~~

By changing the definition of an existing crime with respect to the California Child Day Care Facilities Act, this bill would impose a state-mandated local program.

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 1596.862 is added to the Health and*
2 *Safety Code, immediately following Section 1596.861, to read:*

3 *1596.862. Notwithstanding any other provision of law, a child*
4 *day care facility licensed as a schoolage child care center pursuant*
5 *to Section 1597.21 may provide nonmedical care to an individual*
6 *who is over 18 years of age and has been determined by a regional*
7 *center for persons with developmental disabilities to have a*
8 *developmental disability, as defined in subdivision (a) of Section*
9 *4512 of the Welfare and Institutions Code, if all of the following*
10 *conditions are met:*

11 *(a) The individual is enrolled in a special education program*
12 *and has an individual education plan prepared pursuant to Section*
13 *56340 of the Education Code.*

14 *(b) The licensee submits to the department a written request for*
15 *a waiver to the age requirements of the California Child Day Care*
16 *Facilities Act, together with substantiating evidence supporting*
17 *the request.*

18 *(c) The department provides written approval of the request.*

19 *(d) The individual with a developmental disability either*
20 *attended a schoolage child care center prior to 18 years of age,*
21 *or did not attend a schoolage child care center prior to 18 years*
22 *of age, and attendance at a schoolage child care center is specified*
23 *in the individual's individual program plan developed pursuant*
24 *to Sections 4646, 4646.4, and 4646.5 of the Welfare and Institutions*
25 *Code.*

26 *(e) Indoor activity space that is provided for middle school,*
27 *high school, and transition age youth is physically separated from*
28 *the space provided for younger, schoolage participants.*

29 ~~*SECTION 1. The Legislature finds and declares all of the*~~
30 ~~*following:*~~

31 ~~*(a) Section 56026 of the Education Code allows a youth between*~~
32 ~~*19 and 21 years of age who has not yet completed his or her course*~~
33 ~~*of study to be eligible for certain special education programs.*~~

34 ~~*(b) Section 1596.75 of the Health and Safety Code defines a*~~
35 ~~*child for purposes of the California Child Day Care Facilities Act*~~
36 ~~*as a person under 18 years of age. A child day care facility, as*~~
37 ~~*defined in Section 1596.750 of the Health and Safety Code, refers*~~

1 to a facility that provides nonmedical care to children less than 18
2 years of age.

3 (e) ~~This inconsistency results in placement of students with~~
4 ~~disabilities between the ages of 18 and 22 in the adult category in~~
5 ~~day care facilities, even though these students are still legally able~~
6 ~~to remain in a high school program until the age of 21.~~

7 (d) ~~Children with disabilities between 18 and 22 years of age~~
8 ~~should be allowed to choose to participate and socialize with their~~
9 ~~peer group.~~

10 (e) ~~California law should be consistent, in order to allow child~~
11 ~~day care facilities to meet the needs of children with disabilities.~~

12 ~~SEC. 2. Section 1596.75 of the Health and Safety Code is~~
13 ~~amended to read:~~

14 ~~1596.75. (a) "Child" means a person who is under 18 years~~
15 ~~of age who is being provided care and supervision in a child day~~
16 ~~care facility, except where otherwise specified in this act.~~

17 (b) ~~Notwithstanding subdivision (a), for the purposes of a facility~~
18 ~~with a schoolage child care center license, as defined in Section~~
19 ~~101482 of Title 22 of the California Code of Regulations, "child"~~
20 ~~also includes an individual with developmental disabilities between~~
21 ~~18 and 22 years of age who is still enrolled in school and has an~~
22 ~~individual education plan (IEP) or an individual transition plan.~~
23 ~~An individual who satisfies these criteria shall be classified as~~
24 ~~"schoolage" for purposes of a facility with a schoolage child care~~
25 ~~center license, as defined in Section 101482 of Title 22 of the~~
26 ~~California Code of Regulations, and shall continue his or her~~
27 ~~eligibility for services through these licensed programs.~~

28 (e) ~~For purposes of subdivision (b), indoor activity space that~~
29 ~~is provided for middle school, high school, and transition age youth~~
30 ~~shall be physically separated from the space provided for younger,~~
31 ~~schoolage participants.~~

32 ~~SEC. 3. Section 1596.750 of the Health and Safety Code is~~
33 ~~amended to read:~~

34 ~~1596.750. (a) "Child day care facility" means a facility that~~
35 ~~provides nonmedical care to children under 18 years of age in need~~
36 ~~of personal services, supervision, or assistance essential for~~
37 ~~sustaining the activities of daily living or for the protection of the~~
38 ~~individual on less than a 24-hour basis. Child day care facility~~
39 ~~includes day care centers, employer-sponsored child care centers,~~
40 ~~and family day care homes.~~

1 ~~(b) Notwithstanding subdivision (a), “child day care facility”~~
2 ~~also includes a facility that provides nonmedical care to an~~
3 ~~individual with developmental disabilities between 18 and 22 years~~
4 ~~of age, who is still enrolled in school and has an individual~~
5 ~~education plan (IEP) or an individual transition plan. An individual~~
6 ~~who satisfies these criteria shall be classified as “schoolage” for~~
7 ~~purposes of a facility with a schoolage child care center license,~~
8 ~~as defined in Section 101482 of Title 22 of the California Code of~~
9 ~~Regulations, and shall continue his or her eligibility for services~~
10 ~~through these licensed programs.~~

11 ~~(e) For purposes of subdivision (b), indoor activity space that~~
12 ~~is provided for middle school, high school, and transition age youth~~
13 ~~shall be physically separated from the space provided for younger,~~
14 ~~schoolage participants.~~

15 ~~SEC. 4.~~

16 *SEC. 2.* No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.