

AMENDED IN ASSEMBLY AUGUST 29, 2011

AMENDED IN ASSEMBLY JUNE 16, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE MARCH 21, 2011

**SENATE BILL**

**No. 309**

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**Introduced by Senator Liu**

February 14, 2011

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An act to add ~~Section~~ *Sections 1596.785, 1596.7915, and 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.~~ *schoolage child care centers: nonminor students.*

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 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.~~

*This bill would authorize the department to approve or deny a written request from a schoolage child care center, as defined, for enrollment or retention of a nonminor student, as defined, at the schoolage child care center if the department makes a specified determination. This bill would require that, if a request is submitted to the department at least 30 days prior to the child's 18th birthday, the nonminor student be retained at a schoolage child care center, unless the request is denied in writing. This bill would prohibit a nonminor student from being enrolled at a schoolage child care center until the request is approved in writing by the department.*

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 1596.785 is added to the Health and*
- 2 *Safety Code, immediately following Section 1596.78, to read:*

1 1596.785. “Nonminor student” means a person 18 years of  
2 age or older who qualifies as an individual with exceptional needs,  
3 as defined in Section 56026 of the Education Code, and who  
4 qualifies for services from a regional center for persons with  
5 developmental disabilities, as a person with a developmental  
6 disability as defined in subdivision (a) of Section 4512 of the  
7 Welfare and Institutions Code. The terms “child,” “children,” or  
8 “minor,” as used in this chapter or Chapter 3.5 (commencing with  
9 Section 1596.90), may also include a nonminor student enrolled  
10 or retained at a schoolage child care center.

11 SEC. 2. Section 1596.7915 is added to the Health and Safety  
12 Code, immediately following Section 1596.791, to read:

13 1596.7915. “Schoolage child care center” means a day care  
14 center or part of a day care center that provides nonmedical care  
15 and supervision, personal services, or assistance essential for  
16 sustaining the activities of daily living or for the protection of  
17 schoolage children or nonminor students, or both, in a group  
18 setting for less than 24 hours per day.

19 SEC. 3. Section 1596.862 is added to the Health and Safety  
20 Code, immediately following Section 1596.861, to read:

21 1596.862. (a) The department may approve or deny a written  
22 request for enrollment or retention of a nonminor student at a  
23 schoolage child care center. The department may approve a request  
24 for enrollment or retention of a nonminor student if the department  
25 determines the schoolage child care center can meet the needs of  
26 the nonminor student and enrollment or retention of the nonminor  
27 student is not detrimental to the health and safety of the nonminor  
28 student.

29 (b) (1) For the purposes of retention, if a request, as described  
30 in subdivision (c), is submitted to the department at least 30 days  
31 prior to the child’s 18th birthday, the nonminor student shall be  
32 retained at a schoolage child care center, unless the request is  
33 denied in writing by the department.

34 (2) For the purposes of enrollment, a nonminor student shall  
35 not be enrolled at a schoolage child care center until the request,  
36 as described in subdivision (c), is approved in writing by the  
37 department.

38 (c) A written request from a schoolage child care center for  
39 enrollment or retention of a nonminor student shall include all of  
40 the following:

1 (1) Confirmation that the licensee conducted a personal  
2 interview of the nonminor student or the nonminor student's  
3 authorized representative, if applicable, and a written statement  
4 from the licensee that assesses both of the following:

5 (A) Whether the enrollment or retention of the nonminor student  
6 would present a threat to the physical health, mental health, or  
7 safety of the nonminor student and others at the schoolage child  
8 care center.

9 (B) Whether the needs of the nonminor student can be met by  
10 the schoolage child care center.

11 (2) A copy of the nonminor student's current individualized  
12 education program and any other information requested by the  
13 department.

14 (d) A nonminor student enrolled or retained pursuant to this  
15 section shall be exempt from the fingerprinting and criminal record  
16 clearance requirements in Section 1596.871 and otherwise  
17 applicable regulations.

18 (e) An approved request may be terminated by the department  
19 and a citation of deficiency, an assessment of civil penalties, or  
20 discipline of the licensee pursuant to Section 1596.885 or Section  
21 1596.886, or any combination thereof, may result if the licensee  
22 fails to comply with applicable laws.

23 (f) The department may adopt regulations necessary to  
24 implement this section.

25 SEC. 4. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.

34 SECTION 1. ~~Section 1596.862 is added to the Health and~~  
35 ~~Safety Code, immediately following Section 1596.861, to read:~~

36 ~~1596.862. Notwithstanding any other provision of law, a child~~  
37 ~~day care facility licensed as a schoolage child care center pursuant~~  
38 ~~to Section 1597.21 may provide nonmedical care to an individual~~  
39 ~~who is over 18 years of age and has been determined by a regional~~  
40 ~~center for persons with developmental disabilities to have a~~

1 developmental disability, as defined in subdivision (a) of Section  
2 4512 of the Welfare and Institutions Code, if all of the following  
3 conditions are met:

4 (a) ~~The individual is enrolled in a special education program  
5 and has an individual education plan prepared pursuant to Section  
6 56340 of the Education Code.~~

7 (b) ~~The licensee submits to the department a written request for  
8 a waiver to the age requirements of the California Child Day Care  
9 Facilities Act, together with substantiating evidence supporting  
10 the request.~~

11 (c) ~~The department provides written approval of the request.~~

12 (d) ~~The individual with a developmental disability either  
13 attended a schoolage child care center prior to 18 years of age, or  
14 did not attend a schoolage child care center prior to 18 years of  
15 age, and attendance at a schoolage child care center is specified  
16 in the individual's individual program plan developed pursuant to  
17 Sections 4646, 4646.4, and 4646.5 of the Welfare and Institutions  
18 Code.~~

19 (e) ~~Indoor activity space that is provided for middle school, high  
20 school, and transition age youth is physically separated from the  
21 space provided for younger, schoolage participants.~~

22 SEC. 2. ~~No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.~~