

AMENDED IN SENATE APRIL 17, 2012

AMENDED IN SENATE MARCH 19, 2012

SENATE BILL

No. 1089

Introduced by Senator Liu

(Principal coauthor: Assembly Member Portantino)

February 15, 2012

An act to amend Section 1596.792 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1089, as amended, Liu. Child day care facilities.

The California Child Day Care Facilities Act provides for the licensing and regulation of child day care facilities, as defined, and makes willful or repeated violations of the act a misdemeanor. The act does not apply to specified entities.

Existing law provides that any person under ~~the age of~~ 18 years *of age* who persistently or habitually refuses to obey reasonable and proper orders or directions of his or her parents, guardian, or custodian, or who is beyond the control of that person is within the jurisdiction of the juvenile court.

This bill would provide that the *California* Child Day Care Facilities Act does not apply to specified entities, *including certain outpatient behavior programs for children with developmental disabilities*, unless the primary purpose of ~~the entity~~ *any of those entities* is to provide behavior programming, as specified, but not including programs that are under the jurisdiction of county-operated facilities or certain state departments. By changing the scope of a crime, 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. The Legislature finds and declares all of the
2 following:

3 (a) Youth “boot camps,” “ranch camps,” “forestry camps,” or
4 other nontraditional treatment programs are intended to be less
5 restrictive treatment options for children with significant behavioral
6 issues.

7 (b) Since the 1990s, hundreds of these programs have been
8 established nationwide, with thousands of allegations of abuse,
9 including death.

10 (c) These programs are administered by ~~501(c)(3)~~ nonprofit
11 organizations *described in Section 501(c)(3) of the Internal*
12 *Revenue Code*.

13 (d) These programs advertise services for youth with behavioral
14 issues to families who may feel they have few other options.

15 (e) These boot camps are shown to utilize high-risk tactics on
16 children, such as extreme physical exertion.

17 (f) A particularly troubling instance of neglect and abuse of
18 power surfaced in 2011 at a youth boot camp in Pasadena,
19 California, including allegations of kidnapping, child abuse, child
20 endangerment, extortion, and unlawful use of a badge.

21 (g) The few boot camp-style programs for youth that operate
22 in California do so without licensure.

23 (h) Boot camps that fail to apply for a license put children at
24 risk.

25 (i) It is the role of the Legislature to ensure proper licensing and
26 regulation of social service providers for the protection and care
27 of all citizens.

28 SEC. 2. Section 1596.792 of the Health and Safety Code, as
29 amended by Section 4 of Chapter 519 of the Statutes of 2010, is
30 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, unless the primary purpose
4 of the entity is to provide behavior programming to address conduct
5 described in Section 601 of the Welfare and Institutions Code, but
6 not including programs that are under the jurisdiction of the
7 Department of Corrections and Rehabilitation, Division of Juvenile
8 Facilities or the State Department of Education, or county-operated
9 facilities:

10 (a) Any health facility, as defined by Section 1250.

11 (b) Any clinic, as defined by Section 1202.

12 (c) Any community care facility, as defined by Section 1502.

13 (d) Any family day care home providing care for the children
14 of only one family in addition to the operator's own children.

15 (e) Any cooperative arrangement between parents for the care
16 of their children when no payment is involved and the arrangement
17 meets all of the following conditions:

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

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

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

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

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

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

- 1 (1) The program is operated only during hours other than normal
 2 school hours for kindergarten and grades 1 to 12, inclusive, in the
 3 public school district where the program is located, or operated
 4 only during periods when students in kindergarten and grades 1
 5 to 12, inclusive, are normally not in session in the public school
 6 district where the program is located, for either of the following
 7 periods:
- 8 (A) For under 16 hours per week.
 - 9 (B) For a total of 12 weeks or less during a 12-month period.
- 10 This total applies to any 12 weeks within any 12-month period,
 11 without regard to whether the weeks are consecutive.
- 12 In determining “normal school hours” or periods when students
 13 are “normally not in session,” the State Department of Social
 14 Services shall, when appropriate, consider the normal school hours
 15 or periods when students are normally not in session for students
 16 attending a year-round school.
- 17 (2) The program is provided to children who are over ~~the age~~
 18 ~~of~~ four years and nine months *of age* and not yet enrolled in school
 19 and the program is operated during either of the following periods:
- 20 (A) For under 16 hours per week.
 - 21 (B) For a total of 12 weeks or less during a 12-month period.
- 22 This total applies to any 12 weeks within any 12-month period,
 23 without regard to whether the weeks are consecutive.
- 24 (3) The program is provided to children ~~under the age of~~ four
 25 years and nine months *of age* with sessions that run 12 hours per
 26 week or less and are 12 weeks or less in duration. A program
 27 subject to this paragraph may permit children to be enrolled in
 28 consecutive sessions throughout the year. However, the program
 29 shall not permit children to be enrolled in a combination of sessions
 30 that total more than 12 hours per week for each child.
- 31 (h) Extended day care programs operated by public or private
 32 schools.
 - 33 (i) Any school parenting program or adult education child care
 34 program that satisfies both of the following:
 - 35 (1) Is operated by a public school district or operated by an
 36 individual or organization pursuant to a contract with a public
 37 school district.
 - 38 (2) Is not operated by an organization specified in Section
 39 1596.793.

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

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

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

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

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

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

17 (2) Offers any number of sessions during the period specified
18 in paragraph (1) that when added together do not exceed a total of
19 30 days when only schoolage children are enrolled in the program
20 or 15 days when children younger than schoolage are enrolled in
21 the program.

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

30 (n) *An outpatient behavior program for children with*
31 *developmental disabilities that is vendorized by a regional center.*

32 ~~(n)~~

33 (o) Any crisis nursery, as defined in subdivision (a) of Section
34 1516.

35 ~~(o)~~

36 (p) This section shall remain in effect only until January 1, 2014,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2014, deletes or extends that date.

1 SEC. 3. Section 1596.792 of the Health and Safety Code, as
2 amended by Section 5 of Chapter 519 of the Statutes of 2010, is
3 amended to read:

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28 week or less and are 12 weeks or less in duration. A program
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29 with Section 3410) of Title 2 of Part 3 of the Penal Code, or
30 Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2
31 of that code.

32 (n) *An outpatient behavior program for children with*
33 *developmental disabilities that is vendorized by a regional center.*

34 ~~(n)~~

35 (o) This section shall become operative on January 1, 2014.

36 SEC. 4. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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