

AMENDED IN ASSEMBLY JULY 3, 2012

AMENDED IN SENATE APRIL 17, 2012

AMENDED IN SENATE MARCH 19, 2012

**SENATE BILL**

**No. 1089**

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**Introduced by Senator Liu**

(Principal coauthor: Assembly Member Portantino)

February 15, 2012

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An act to ~~amend Section 1596.792 of~~ *add Section 1502.2* to the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1089, as amended, Liu. ~~Child day care facilities. Alternative treatment facilities for youth.~~

~~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 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 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.~~

*Existing law, the California Community Care Facilities Act (the act), provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.*

*This bill would define “private nontraditional alternative treatment facility for youth,” for purposes of the act. The bill would prohibit a person, firm, partnership, association organization, or corporation from operating, establishing, managing, conducting, or maintaining these type of treatment facilities unless licensing provisions are met and components of the program are accredited by an approved organization, as specified. The bill would prohibit a private nontraditional alternative treatment facility for youth from using corporal punishment, as defined. By adding private nontraditional alternative treatment facilities for youth to the act, this bill would create a new crime and 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 nonprofit organizations
- 11 described in Section 501(c)(3) of the Internal Revenue Code.

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

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

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

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

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

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

16 ~~SEC. 2. Section 1596.792 of the Health and Safety Code, as~~  
17 ~~amended by Section 4 of Chapter 519 of the Statutes of 2010, is~~  
18 ~~amended to read:~~

19 ~~1596.792. This chapter, Chapter 3.5 (commencing with Section~~  
20 ~~1596.90), and Chapter 3.6 (commencing with Section 1597.30)~~  
21 ~~do not apply to any of the following, unless the primary purpose~~  
22 ~~of the entity is to provide behavior programming to address conduct~~  
23 ~~described in Section 601 of the Welfare and Institutions Code, but~~  
24 ~~not including programs that are under the jurisdiction of the~~  
25 ~~Department of Corrections and Rehabilitation, Division of Juvenile~~  
26 ~~Facilities or the State Department of Education, or county-operated~~  
27 ~~facilities:~~

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

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

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

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

33 ~~(e) Any cooperative arrangement between parents for the care~~  
34 ~~of their children when no payment is involved and the arrangement~~  
35 ~~meets all of the following conditions:~~

36 ~~(1) In a cooperative arrangement, parents shall combine their~~  
37 ~~efforts so that each parent, or set of parents, rotates as the~~  
38 ~~responsible caregiver with respect to all the children in the~~  
39 ~~cooperative.~~

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

4     ~~(3) There can be no payment of money or receipt of in-kind~~  
5 ~~income in exchange for the provision of care. This does not prohibit~~  
6 ~~in-kind contributions of snacks, games, toys, blankets for napping,~~  
7 ~~pillows, and other materials parents deem appropriate for their~~  
8 ~~children. It is not the intent of this paragraph to prohibit payment~~  
9 ~~for outside activities, the amount of which may not exceed the~~  
10 ~~actual cost of the activity.~~

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

13     ~~(f) Any arrangement for the receiving and care of children by~~  
14 ~~a relative.~~

15     ~~(g) Any public recreation program. “Public recreation program”~~  
16 ~~means a program operated by the state, city, county, special district,~~  
17 ~~school district, community college district, chartered city, or~~  
18 ~~chartered city and county that meets either of the following criteria:~~

19     ~~(1) The program is operated only during hours other than normal~~  
20 ~~school hours for kindergarten and grades 1 to 12, inclusive, in the~~  
21 ~~public school district where the program is located, or operated~~  
22 ~~only during periods when students in kindergarten and grades 1~~  
23 ~~to 12, inclusive, are normally not in session in the public school~~  
24 ~~district where the program is located, for either of the following~~  
25 ~~periods:~~

26     ~~(A) For under 16 hours per week.~~

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

30     ~~In determining “normal school hours” or periods when students~~  
31 ~~are “normally not in session,” the State Department of Social~~  
32 ~~Services shall, when appropriate, consider the normal school hours~~  
33 ~~or periods when students are normally not in session for students~~  
34 ~~attending a year-round school.~~

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

38     ~~(A) For under 16 hours per week.~~

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

4 ~~(3) The program is provided to children under four years and~~  
5 ~~nine months of age with sessions that run 12 hours per week or~~  
6 ~~less and are 12 weeks or less in duration. A program subject to~~  
7 ~~this paragraph may permit children to be enrolled in consecutive~~  
8 ~~sessions throughout the year. However, the program shall not~~  
9 ~~permit children to be enrolled in a combination of sessions that~~  
10 ~~total more than 12 hours per week for each child.~~

11 ~~(h) Extended day care programs operated by public or private~~  
12 ~~schools.~~

13 ~~(i) Any school parenting program or adult education child care~~  
14 ~~program that satisfies both of the following:~~

15 ~~(1) Is operated by a public school district or operated by an~~  
16 ~~individual or organization pursuant to a contract with a public~~  
17 ~~school district.~~

18 ~~(2) Is not operated by an organization specified in Section~~  
19 ~~1596.793.~~

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

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

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

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

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

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

36 ~~(2) Offers any number of sessions during the period specified~~  
37 ~~in paragraph (1) that when added together do not exceed a total of~~  
38 ~~30 days when only schoolage children are enrolled in the program~~  
39 ~~or 15 days when children younger than schoolage are enrolled in~~  
40 ~~the program.~~

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

9 ~~(n) An outpatient behavior program for children with~~  
10 ~~developmental disabilities that is vendorized by a regional center.~~

11 ~~(o) Any crisis nursery, as defined in subdivision (a) of Section~~  
12 ~~1516.~~

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

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

19 ~~1596.792. This chapter, Chapter 3.5 (commencing with Section~~  
20 ~~1596.90), and Chapter 3.6 (commencing with Section 1597.30)~~  
21 ~~do not apply to any of the following, unless the primary purpose~~  
22 ~~of the entity is to provide behavior programming to address conduct~~  
23 ~~described in Section 601 of the Welfare and Institutions Code, but~~  
24 ~~not including programs that are under the jurisdiction of the~~  
25 ~~Department of Corrections and Rehabilitation, Division of Juvenile~~  
26 ~~Facilities or the State Department of Education, or county-operated~~  
27 ~~facilities:~~

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

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

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

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

33 ~~(e) Any cooperative arrangement between parents for the care~~  
34 ~~of their children when no payment is involved and the arrangement~~  
35 ~~meets all of the following conditions:~~

36 ~~(1) In a cooperative arrangement, parents shall combine their~~  
37 ~~efforts so that each parent, or set of parents, rotates as the~~  
38 ~~responsible caregiver with respect to all the children in the~~  
39 ~~cooperative.~~

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

4 ~~(3) There can be no payment of money or receipt of in-kind~~  
5 ~~income in exchange for the provision of care. This does not prohibit~~  
6 ~~in-kind contributions of snacks, games, toys, blankets for napping,~~  
7 ~~pillows, and other materials parents deem appropriate for their~~  
8 ~~children. It is not the intent of this paragraph to prohibit payment~~  
9 ~~for outside activities, the amount of which may not exceed the~~  
10 ~~actual cost of the activity.~~

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

13 ~~(f) Any arrangement for the receiving and care of children by~~  
14 ~~a relative.~~

15 ~~(g) Any public recreation program. “Public recreation program”~~  
16 ~~means a program operated by the state, city, county, special district,~~  
17 ~~school district, community college district, chartered city, or~~  
18 ~~chartered city and county that meets either of the following criteria:~~

19 ~~(1) The program is operated only during hours other than normal~~  
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21 ~~public school district where the program is located, or operated~~  
22 ~~only during periods when students in kindergarten and grades 1~~  
23 ~~to 12, inclusive, are normally not in session in the public school~~  
24 ~~district where the program is located, for either of the following~~  
25 ~~periods:~~

26 ~~(A) For under 16 hours per week.~~

27 ~~(B) For a total of 12 weeks or less during a 12-month period.~~  
28 ~~This total applies to any 12 weeks within any 12-month period,~~  
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30 ~~In determining “normal school hours” or periods when students~~  
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32 ~~Services shall, when appropriate, consider the normal school hours~~  
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34 ~~attending a year-round school.~~

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

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- 1 ~~(B) For a total of 12 weeks or less during a 12-month period.~~  
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3 ~~without regard to whether the weeks are consecutive.~~
- 4 ~~(3) The program is provided to children under four years and~~  
5 ~~nine months of age with sessions that run 12 hours per week or~~  
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7 ~~this paragraph may permit children to be enrolled in consecutive~~  
8 ~~sessions throughout the year. However, the program shall not~~  
9 ~~permit children to be enrolled in a combination of sessions that~~  
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- 11 ~~(h) Extended day care programs operated by public or private~~  
12 ~~schools.~~
- 13 ~~(i) Any school parenting program or adult education child care~~  
14 ~~program that satisfies both of the following:~~
- 15 ~~(1) Is operated by a public school district or operated by an~~  
16 ~~individual or organization pursuant to a contract with a public~~  
17 ~~school district.~~
- 18 ~~(2) Is not operated by an organization specified in Section~~  
19 ~~1596.793.~~
- 20 ~~(j) Any child day care program that operates only one day per~~  
21 ~~week for no more than four hours on that one day.~~
- 22 ~~(k) Any child day care program that offers temporary child care~~  
23 ~~services to parents and that satisfies both of the following:~~
- 24 ~~(1) The services are only provided to parents and guardians who~~  
25 ~~are on the same premises as the site of the child day care program.~~
- 26 ~~(2) The child day care program is not operated on the site of a~~  
27 ~~ski facility, shopping mall, department store, or any other similar~~  
28 ~~site identified by the department by regulation.~~
- 29 ~~(l) Any program that provides activities for children of an~~  
30 ~~instructional nature in a classroom-like setting and satisfies both~~  
31 ~~of the following:~~
- 32 ~~(1) Is operated only during periods of the year when students~~  
33 ~~in kindergarten and grades 1 to 12, inclusive, are normally not in~~  
34 ~~session in the public school district where the program is located~~  
35 ~~due to regularly scheduled vacations.~~
- 36 ~~(2) Offers any number of sessions during the period specified~~  
37 ~~in paragraph (1) that when added together do not exceed a total of~~  
38 ~~30 days when only schoolage children are enrolled in the program~~  
39 ~~or 15 days when children younger than schoolage are enrolled in~~  
40 ~~the program.~~

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

9 ~~(n) An outpatient behavior program for children with~~  
10 ~~developmental disabilities that is vendorized by a regional center.~~

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

12 *SEC. 2. Section 1502.2 is added to the Health and Safety Code,*  
13 *to read:*

14 *1502.2. "Private nontraditional alternative treatment facility*  
15 *for youth" means any residential or nonresidential facility or*  
16 *program operated by an organization that provides aggressive*  
17 *nontraditional punitive, retaliatory, aversive, or military style*  
18 *behavioral treatment or intervention services for youth.*

19 *(a) No person, firm, partnership, association organization, or*  
20 *corporation shall operate, establish, manage, conduct, or maintain*  
21 *a private nontraditional alternative treatment facility for youth,*  
22 *unless the applicable licensing requirements are met and all*  
23 *components of the program are accredited by an independent*  
24 *nonprofit accrediting organization approved by the department,*  
25 *including the Commission on Accreditation of Rehabilitation*  
26 *International or the Joint Commission.*

27 *(b) Corporal punishment shall not be used in any private*  
28 *nontraditional alternative treatment facility for youth.*

29 *(c) For the purposes of this section, "corporal punishment"*  
30 *means willfully causing the infliction of physical pain or injury on*  
31 *a child through physical contact, verbal or emotional harassment,*  
32 *intimidation, humiliation, exploitation, or abuse.*

33 *(d) A resolution, bylaw, rule, ordinance, or any other act or*  
34 *authority permitting or authorizing the operation of a private*  
35 *nontraditional alternative treatment facility for youth that does*  
36 *not comply with this section is void and unenforceable.*

37 *(e) Private nontraditional alternative treatment facilities for*  
38 *youth do not include programs under the jurisdiction of the*  
39 *Department of Corrections and Rehabilitation, the Division of*  
40 *Juvenile Facilities, the State Department of Education,*

1 *county-operated facilities or programs, or a residential or*  
2 *nonresidential behavior program for youth with developmental*  
3 *disabilities that is under the jurisdiction of the State Department*  
4 *of Developmental Services or vendorized by a regional center*  
5 *pursuant to Division 4.5 (commencing with Section 4500) of the*  
6 *Welfare and Institutions Code.*

7 ~~SEC. 4.~~

8 SEC. 3. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.