

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 524

Introduced by Senator Lara

February 26, 2015

An act to *amend Section 1505 of, and to add Section 1502.2 to* the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 524, as amended, Lara. ~~Alternative treatment facilities~~ *Private alternative therapeutic institutions* for youth.

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, *the act does not apply to certain facilities, including, among others, any school dormitory or similar facility determined by the department. Existing law makes a violation of any of these provisions is punishable as a misdemeanor.*

This bill would define “~~private alternative treatment and education facility~~ *therapeutic institution* for youth,” for purposes of the ~~act~~. *act, and would specify that the act applies to those institutions.* The bill would prohibit a person, firm, partnership, association, organization, or corporation from operating, establishing, managing, conducting, or maintaining this type of ~~treatment and education facility~~ *institution* unless the ~~facility~~ *institution* is ~~licensed~~ *licensed* by the department and ~~components of the program are accredited by an approved organization, as specified.~~ *department. The bill would require the department, no later than June 1, 2016, to adopt regulations establishing oversight and monitoring of private alternative therapeutic institutions for youth that, at a minimum, ensure the physical and mental well-being of youth in*

those institutions, and create mandated personal rights for those youth. The bill would prohibit the department from licensing a private alternative therapeutic institution for youth unless all therapeutic components of the programs provided at the institution are licensed by the appropriate agency or department. By adding private alternative ~~treatment and education facilities~~ therapeutic institutions for youth to the act, this bill would create a new crime, thereby imposing 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) Since the 1990s, hundreds of nontraditional treatment
- 4 programs that are intended to be less restrictive treatment options
- 5 for children with significant behavioral issues have been established
- 6 nationwide, with thousands of allegations of abuse, including death.
- 7 (b) There are currently facilities operating within California that
- 8 are not licensed by the State Department of Social Services.
- 9 (c) These facilities are often owned and operated by nonprofit
- 10 organizations described in Section 501(c)(3) of the Internal
- 11 Revenue Code.
- 12 (d) These facilities advertise services for youth with behavioral
- 13 issues to families who may feel they have no other options.
- 14 (e) Former students have formed national and local organizations
- 15 to expose the trauma and abuse they experienced at these facilities.
- 16 (f) Students at these facilities are previous victims of trauma,
- 17 have experienced parental rejection based on actual or perceived
- 18 sexual orientation or gender identity, and have mental health and
- 19 substance use issues.
- 20 (g) It is the role of the Legislature to ensure proper licensing
- 21 and regulation of residential facilities for the protection and care
- 22 of all citizens.

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

3 1502.2. (a) “Private alternative ~~treatment and education facility~~
4 *therapeutic institution* for youth” means any residential facility or
5 program operated by a private entity with a focus on serving
6 ~~children~~ *persons 18 years of age and younger* with emotional,
7 behavioral, or mental health issues or disorders, and that provides
8 any of the following:

9 (1) A program with wilderness or outdoor experience,
10 expedition, or intervention.

11 (2) A boot camp experience or other experience designed to
12 simulate characteristics of basic military training or correctional
13 regimes.

14 (3) A therapeutic boarding school.

15 (4) A behavior modification program.

16 (b) A person, firm, partnership, association, organization, or
17 corporation shall not operate, establish, manage, conduct, or
18 maintain a private alternative ~~treatment and education facility~~
19 *therapeutic institution* for youth, unless the facility is licensed by
20 the department and all components of the program are accredited
21 by an independent nonprofit accrediting organization approved by
22 the department.

23 ~~(e) A private alternative treatment and education facility for~~
24 ~~youth shall, at a minimum, afford each student, resident, or~~
25 ~~participant the rights guaranteed in Section 84072 of Title 22 of~~
26 ~~the California Code of Regulations.~~

27 ~~(d) A resolution, bylaw, rule, ordinance, or any other act or~~
28 ~~authority permitting or authorizing the operation of a private~~
29 ~~alternative treatment and education facility for youth that does not~~
30 ~~comply with this section is void and unenforceable.~~

31 *(c) The department shall adopt regulations no later than June*
32 *1, 2016, establishing oversight and monitoring of private*
33 *alternative therapeutic institutions for youth that, at a minimum,*
34 *ensure the physical and mental well-being of youth in those*
35 *institutions, and create mandated personal rights for those youth.*

36 *(d) The department shall not license a private alternative*
37 *therapeutic institution for youth unless all therapeutic components*
38 *of the programs provided at the institution are licensed by the*
39 *appropriate agency or department.*

1 SEC. 3. Section 1505 of the Health and Safety Code is amended
2 to read:

3 1505. This chapter does 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 juvenile placement facility approved by the Department
7 of Corrections and Rehabilitation, Division of Juvenile Justice, or
8 any juvenile hall operated by a county.

9 (d) Any place in which a juvenile is judicially placed pursuant
10 to subdivision (a) of Section 727 of the Welfare and Institutions
11 Code.

12 (e) Any child day care facility, as defined in Section 1596.750.

13 (f) Any facility conducted by and for the adherents of any
14 well-recognized church or religious denomination for the purpose
15 of providing facilities for the care or treatment of the sick who
16 depend upon prayer or spiritual means for healing in the practice
17 of the religion of the church or denomination.

18 (g) Any school dormitory or similar facility determined by the
19 ~~department~~ department, except a private alternative therapeutic
20 institution for youth as defined in Section 1502.2.

21 (h) Any house, institution, hotel, homeless shelter, or other
22 similar place that supplies board and room only, or room only, or
23 board only, provided that no resident thereof requires any element
24 of care as determined by the director.

25 (i) Recovery houses or other similar facilities providing group
26 living arrangements for persons recovering from alcoholism or
27 drug addiction where the facility provides no care or supervision.

28 (j) Any alcoholism or drug abuse recovery or treatment facility
29 as defined by Section 11834.11.

30 (k) Any arrangement for the receiving and care of persons by
31 a relative or any arrangement for the receiving and care of persons
32 from only one family by a close friend of the parent, guardian, or
33 conservator, if the arrangement is not for financial profit and occurs
34 only occasionally and irregularly, as defined by regulations of the
35 department. For purposes of this chapter, arrangements for the
36 receiving and care of persons by a relative shall include relatives
37 of the child for the purpose of keeping sibling groups together.

38 (l) (1) Any home of a relative caregiver of children who are
39 placed by a juvenile court, supervised by the county welfare or
40 probation department, and the placement of whom is approved

1 according to subdivision (d) of Section 309 of the Welfare and
2 Institutions Code.

3 (2) Any home of a nonrelative extended family member, as
4 described in Section 362.7 of the Welfare and Institutions Code,
5 providing care to children who are placed by a juvenile court,
6 supervised by the county welfare or probation department, and the
7 placement of whom is approved according to subdivision (d) of
8 Section 309 of the Welfare and Institutions Code.

9 (3) On and after January 1, 2012, any supervised independent
10 living placement for nonminor dependents, as defined in
11 subdivision (w) of Section 11400 of the Welfare and Institutions
12 Code, who are placed by the juvenile court, supervised by the
13 county welfare department, probation department, Indian tribe,
14 consortium of tribes, or tribal organization that entered into an
15 agreement pursuant to Section 10553.1 of the Welfare and
16 Institutions Code, and whose placement is approved pursuant to
17 subdivision (k) of Section 11400 of the Welfare and Institutions
18 Code.

19 (4) A Transitional Housing Program-Plus, as defined in
20 subdivision (s) of Section 11400 of the Welfare and Institutions
21 Code, that serves only eligible former foster youth over 18 years
22 of age who have exited from the foster care system on or after their
23 18th birthday, and that has obtained certification from the
24 applicable county in accordance with subdivision (c) of Section
25 16522 of the Welfare and Institutions Code.

26 (m) Any supported living arrangement for individuals with
27 developmental disabilities, as defined in Section 4689 of the
28 Welfare and Institutions Code.

29 (n) (1) Any family home agency, family home, or family
30 teaching home as defined in Section 4689.1 of the Welfare and
31 Institutions Code, that is vendored by the State Department of
32 Developmental Services and that does any of the following:

33 (A) As a family home approved by a family home agency,
34 provides 24-hour care for one or two adults with developmental
35 disabilities in the residence of the family home provider or
36 providers and the family home provider or providers' family, and
37 the provider is not licensed by the State Department of Social
38 Services or the State Department of Public Health or certified by
39 a licensee of the State Department of Social Services or the State
40 Department of Public Health.

1 (B) As a family teaching home approved by a family home
2 agency, provides 24-hour care for a maximum of three adults with
3 developmental disabilities in independent residences, whether
4 contiguous or attached, and the provider is not licensed by the
5 State Department of Social Services or the State Department of
6 Public Health or certified by a licensee of the State Department of
7 Social Services or the State Department of Public Health.

8 (C) As a family home agency, engages in recruiting, approving,
9 and providing support to family homes.

10 (2) No part of this subdivision shall be construed as establishing
11 by implication either a family home agency or family home
12 licensing category.

13 (o) Any facility in which only Indian children who are eligible
14 under the federal Indian Child Welfare Act (Chapter 21
15 (commencing with Section 1901) of Title 25 of the United States
16 Code) are placed and that is one of the following:

17 (1) An extended family member of the Indian child, as defined
18 in Section 1903 of Title 25 of the United States Code.

19 (2) A foster home that is licensed, approved, or specified by the
20 Indian child's tribe pursuant to Section 1915 of Title 25 of the
21 United States Code.

22 (p) (1) (A) Any housing occupied by elderly or disabled
23 persons, or both, that is initially approved and operated under a
24 regulatory agreement pursuant to Section 202 of Public Law 86-372
25 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625
26 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to
27 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that
28 receives mortgage assistance pursuant to Section 221d (3) of Public
29 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
30 made available to residents at their option, as long as the project
31 owner or operator does not contract for or provide the supportive
32 services.

33 (B) Any housing that qualifies for a low-income housing credit
34 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
35 or that is subject to the requirements for rental dwellings for
36 low-income families pursuant to Section 8 of Public Law 93-383
37 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
38 persons, or both, where supportive services are made available to
39 residents at their option, as long as the project owner or operator
40 does not contract for or provide the supportive services.

1 (2) The project owner or operator to which paragraph (1) applies
2 may coordinate, or help residents gain access to, the supportive
3 services, either directly, or through a service coordinator.

4 (q) A resource family, as defined in Section 16519.5 of the
5 Welfare and Institutions Code

6 (r) Any similar facility determined by the director.

7 ~~SEC. 3.~~

8 *SEC. 4.* 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.

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