

AMENDED IN SENATE JANUARY 26, 2004
AMENDED IN SENATE SEPTEMBER 3, 2003
AMENDED IN SENATE AUGUST 18, 2003
AMENDED IN SENATE JUNE 30, 2003
AMENDED IN SENATE JUNE 23, 2003
AMENDED IN SENATE JUNE 5, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003
AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 366

Introduced by Assembly Member Mullin

February 14, 2003

An act to amend Sections 1502 and 1522.02 of the Health and Safety Code, relating to care facilities, ~~making an appropriation therefor~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 366, as amended, Mullin. Child care: substitute employee registry.

Existing law authorizes the State Department of Social Services to adopt regulations to create substitute employee registries for persons working at more than one facility licensed by the department, in order to permit these registries to submit fingerprint cards and child abuse index information for child care registries.

This bill would authorize the department to adopt the above regulations in order to permit these registries, instead, to submit fingerprint images and related information to the Department of Justice, in accordance with prescribed provisions, for workers who are associated with the registries, and would require the Department of Justice to assess all processing fees associated with these provisions. It would also require that the responses from the Department of Justice be provided to the department, and would permit these responses to include information from specified sources.

Existing law additionally authorizes the department to operate a substitute child care employee registry pilot program for the above purposes, pursuant to specified criteria, and to charge a reasonable annual licensing fee to participating registry facilities.

This bill, instead, would require, until January 1, 2007, the department to operate this substitute child care employee registry pilot program, and on and after that date, would authorize the department, in its discretion, to operate the pilot program. The bill would require the department to provide each registry under the pilot program with a facility number, and would require that the child care worker be registered with the registry, and not with an individual child care facility that temporarily employs the child care worker. The bill would require the registry to maintain all employee records for a child care worker at its central office subject to inspection or electronic transfer to the department if requested. This bill also would authorize the department to adopt emergency regulations to implement the pilot program.

The bill would define “substitute employee registry” for purposes of the California Community Care Facilities Act.

Existing law permits the department to limit the pilot program to specified counties.

This bill would revise the list of counties that may participate in the pilot program.

The bill would require the department to report to the Legislature by March 31, 2004, specified information concerning the pilot program.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is in the interest of the safety of children and the quality of their care to maintain the teacher and child staff ratios in child care centers and schools as required by current law.

(b) Substitute employee registries are a valuable resource for filling vacancies with fully qualified substitute employees.

(c) The licensing and oversight of substitute employee registries are within the purview of quality initiatives in the state's plan under the Child Care and Development Fund as provided by the Congress of the United States.

SEC. 2. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by

1 the department, pursuant to Section 1530, in consultation with
2 therapeutic day services and foster care providers.

3 (4) “Foster family agency” means any organization engaged
4 in the recruiting, certifying, and training of, and providing
5 professional support to, foster parents, or in finding homes or other
6 places for placement of children for temporary or permanent care
7 who require that level of care as an alternative to a group home.
8 Private foster family agencies shall be organized and operated on
9 a nonprofit basis.

10 (5) “Foster family home” means any residential facility
11 providing 24-hour care for six or fewer foster children that is
12 owned, leased, or rented and is the residence of the foster parent
13 or parents, including their family, in whose care the foster children
14 have been placed. The placement may be by a public or private
15 child placement agency or by a court order, or by voluntary
16 placement by a parent, parents, or guardian. It also means a foster
17 family home described in Section 1505.2.

18 (6) “Small family home” means any residential facility, in the
19 licensee’s family residence, that provides 24-hour care for six or
20 fewer foster children who have mental disorders or developmental
21 or physical disabilities and who require special care and
22 supervision as a result of their disabilities. A small family home
23 may accept children with special health care needs, pursuant to
24 subdivision (a) of Section 17710 of the Welfare and Institutions
25 Code. In addition to placing children with special health care
26 needs, the department may approve placement of children without
27 special health care needs, up to the licensed capacity.

28 (7) “Social rehabilitation facility” means any residential
29 facility that provides social rehabilitation services for no longer
30 than 18 months in a group setting to adults recovering from mental
31 illness who temporarily need assistance, guidance, or counseling.
32 Program components shall be subject to program standards
33 pursuant to Article 1 (commencing with Section 5670) of Chapter
34 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

35 (8) “Community treatment facility” means any residential
36 facility that provides mental health treatment services to children
37 in a group setting and that has the capacity to provide secure
38 containment. Program components shall be subject to program
39 standards developed and enforced by the State Department of



1 Mental Health pursuant to Section 4094 of the Welfare and
2 Institutions Code.

3 Nothing in this section shall be construed to prohibit or
4 discourage placement of persons who have mental or physical
5 disabilities into any category of community care facility that meets
6 the needs of the individual placed, if the placement is consistent
7 with the licensing regulations of the department.

8 (9) “Full-service adoption agency” means any licensed entity
9 engaged in the business of providing adoption services, that does
10 all of the following:

11 (A) Assumes care, custody, and control of a child through
12 relinquishment of the child to the agency or involuntary
13 termination of parental rights to the child.

14 (B) Assesses the birth parents, prospective adoptive parents, or
15 child.

16 (C) Places children for adoption.

17 (D) Supervises adoptive placements.

18 Private full-service adoption agencies shall be organized and
19 operated on a nonprofit basis.

20 (10) “Noncustodial adoption agency” means any licensed
21 entity engaged in the business of providing adoption services, that
22 does all of the following:

23 (A) Assesses the prospective adoptive parents.

24 (B) Cooperatively matches children freed for adoption, who
25 are under the care, custody, and control of a licensed adoption
26 agency, for adoption, with assessed and approved adoptive
27 applicants.

28 (C) Cooperatively supervises adoptive placements with a
29 full-service adoptive agency, but does not disrupt a placement or
30 remove a child from a placement.

31 Private noncustodial adoption agencies shall be organized and
32 operated on a nonprofit basis.

33 (11) “Transitional shelter care facility” means any group care
34 facility that provides for 24-hour nonmedical care of persons in
35 need of personal services, supervision, or assistance essential for
36 sustaining the activities of daily living or for the protection of the
37 individual. Program components shall be subject to program
38 standards developed by the State Department of Social Services
39 pursuant to Section 1502.3.



(12) “Transitional housing placement facility” means a community care facility licensed by the department pursuant to Section 1559.110 to provide transitional housing opportunities to persons at least 17 years of age, and not more than 18 years of age unless the requirements of Section 11403 of the Welfare and Institutions Code are met, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(13) “Substitute employee registry” means any organization licensed pursuant to Section 1522.02 to provide cleared employees to a community care facility on a temporary placement basis.

(b) “Department” or “state department” means the State Department of Social Services.

(c) “Director” means the Director of Social Services.

SEC. 3. Section 1522.02 of the Health and Safety Code is amended to read:

1522.02. (a) The department may adopt regulations to create substitute employee registries for persons working at more than one facility licensed pursuant to this chapter, Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1569.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), in order to permit these registries to submit fingerprint images and related information pursuant to Section 1596.871, to the Department of Justice for workers who are associated with the registries so that these facilities have available cleared care staff. Notwithstanding paragraph (3) of subdivision (a) of Section 1596.871, the Department of Justice shall assess all processing fees associated with this subdivision. The responses from the Department of Justice shall be provided to the department and may include information from its Criminal Index and Identification (Cal-CII) system, the Federal Bureau of Investigation and, if appropriate, the Child Abuse Central Index pursuant to subparagraph (A) of paragraph (6) of subdivision (b) of Section 11170 of the Penal Code.

(b) (1) The department shall, until January 1, 2007, operate a substitute child care employee registry pilot program for the purposes of subdivision (a). On and after January 1, 2007, the

1 department may, in its discretion, operate the substitute child care
2 employee registry pilot program.

3 (2) The department may charge participating registries a
4 reasonable annual licensing fee. Except for fees associated with
5 criminal background clearances, no licensing fees shall be charged
6 to temporary employees of these registries.

7 (3) The pilot program shall be subject to all of the following:

8 (A) The pilot program shall be limited to screening employees
9 for facilities licensed as child care facilities.

10 (B) Registries may not hire or retain any child care worker for
11 employment at a child care facility who requires an exemption
12 from the criminal background clearance requirements of law.

13 (C) The department shall only guarantee the authenticity of
14 criminal background and child abuse index information that
15 registries provide to child care facilities. Any other information
16 about a child care worker shall be verified by the registry and
17 certified through a certificate issued by the registry.

18 (D) The department shall provide each registry with a facility
19 number. The child care worker shall be registered with the registry,
20 and not with the individual child care facility that temporarily
21 employs him or her. Each registry's facility number shall remain
22 valid unless suspended or revoked by the department in the manner
23 specified for other licensed community care facilities. Each
24 registry shall maintain all employee background and employment
25 records at its central office subject to physical inspection or
26 electronic transfer to the department if requested.

27 (E) The department may limit the pilot program to the Counties
28 of Alameda, Contra Costa, Orange, Sacramento, San Francisco,
29 San Mateo, and Santa Clara.

30 (c) The department may adopt emergency regulations to
31 implement subdivision (b). The adoption, amendment, repeal, or
32 readoption of a regulation authorized by this subdivision is
33 deemed to be necessary for the immediate preservation of the
34 public peace, health and safety, or general welfare, for purposes of
35 Sections 11346.1 and 11349.6 of the Government Code, and the
36 department is hereby exempted from the requirement that it
37 describe specific facts showing the need for immediate action. For
38 purposes of subdivision (e) of Section 11346.1 of the Government
39 Code, the 120-day period, as applicable to the effective period of
40 an emergency regulatory action and submission of specified

1 materials to the Office of Administrative Law, is hereby extended
2 to 180 days.

3 SEC. 4. The State Department of Social Services shall report
4 to the Legislature, by March 31, 2004, whether state personnel are
5 filling the authorized positions for the substitute child care
6 employee registry pilot program, including the proportion of each
7 person's time allocated to the substitute employee registry (SER)
8 project, the number of counties and substitute employee registries
9 participating in the pilot program as of February 28, 2004, and any
10 barriers encountered in the implementation of the pilot program.

11 A copy of any emergency regulations adopted by the State
12 Department of Social Services pursuant to Section 1522.02 of the
13 Health and Safety Code shall also be transmitted with the report.

14 SEC. 5. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety
16 within the meaning of Article IV of the Constitution and shall go
17 into immediate effect. The facts constituting the necessity are:

18 In order to expedite criminal background checks so as to enable
19 temporary child care employees to fill emergency vacancies in
20 child care facilities as soon as possible, it is necessary that this act
21 take effect immediately.

