

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 762

Introduced by Assembly Member Mullin
(Coauthor: Assembly Member Chávez)
(Coauthor: Senator Hertzberg)

February 25, 2015

An act to add Section 1596.951 to, and to amend and repeal Sections 1596.955 and 1596.956 of, the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 762, as amended, Mullin. Day care centers: integrated licensing.

Existing law, the California Child Day Care Facilities Act, provides for the licensure and regulation of day care centers by the State Department of Social Services. Existing regulations require a separate license to be issued for each component of a combination center, and establishes teacher-child ratio requirements. Existing law requires the department to develop guidelines and procedures to ~~permit~~ *authorize* licensed child day care centers serving infants or preschool age children to create a special optional toddler program component for children between 18 and 30 months of age, and requires the program to be considered an extension of the infant center or preschool license. Existing law makes it a misdemeanor to willfully or repeatedly violate any of these provisions or a rule or regulation promulgated under these provisions.

This bill would require the department to adopt regulations, on or before January 1, 2018, to develop and implement ~~an~~ *a single* integrated license for a day care center serving children from birth to kindergarten.

The bill would require ~~an applicant for the integrated license to meet specified basic requirements in addition to the current safety and care standards, including, specified staff-child ratios and requirements pertaining to indoor and outdoor activity space.~~ *the regulations to include age-appropriate transition times, as specified, and a requirement that an integrated license list the age groups of children being served at the day care center.* The bill would require, between January 1, 2018, and December 31, 2018, an existing day care center license to be converted to a single integrated child care license upon annual renewal of the license, and would require that until a day care center has the new integrated license, standards for inspection of a day care center to be based on the current license. The bill would also require a day care center with a toddler component to extend the toddler component to serve children 18 months to 3 years, inclusive, years of age and would repeal the provisions relating to a toddler program component on January 1, 2018. By changing the definition of an existing crime, the bill would impose a state-mandated 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) ~~In the 1970's,~~ 1970s, California led the nation in the creation
- 4 of its licensing system for community care facilities, and pioneered
- 5 recognition of the special needs of infants and toddlers with a
- 6 license distinct from preschool-age care.
- 7 (b) While the standard of care in California statute remains
- 8 appropriate, the bifurcation of early care licensing in California
- 9 into two separate licenses is unnecessary and problematic.
- 10 (c) Many states now mandate the standard required in California,
- 11 but without dual-licensing. California is one of only two states in
- 12 the country that employ a separate infant-toddler license. Other
- 13 states employ a single license for early childhood centers,

1 mandating developmentally appropriate standards based on the
2 age of the children served.

3 (d) Even in California, family day care homes are not subject
4 to the dual license requirement. Only private fee, state and federally
5 funded child day care facilities are subject to the dual license
6 requirement.

7 (e) It is the intent of the Legislature that all of the following are
8 required under a new integrated licensing structure:

9 (1) Children shall be grouped together by their appropriate
10 developmental levels and appropriate staff-child ratio and group
11 size regulations shall be followed.

12 (2) Children shall transition from ~~age-appropriate~~
13 *age-appropriate* classrooms or program spaces when their
14 developmental level is appropriate for such a move.

15 (3) A child's chronological age and the entire group's need shall
16 also be considering factors for such moves.

17 (4) All children shall be supervised appropriately by teachers
18 and ~~aids~~ *aides* with appropriate staff qualifications. Toddlers may
19 be grouped with either infants or preschoolers as long as the
20 requirements applicable to the youngest age group in the group
21 are followed.

22 (5) *Emphasis shall be placed on improving the quality of early*
23 *care and education for children from birth to kindergarten in*
24 *center-based programs.*

25 (6) *Promotion of long-term efficiency within the Community*
26 *Care Licensing Division of the State Department of Social Services*
27 *through the elimination of duplicate paperwork and compliance*
28 *visits to day care centers.*

29 (7) *Inspection of a day care center based on a single integrated*
30 *license rather than on separate visits based on each license to*
31 *increase efficiency and to allow a department analyst to more*
32 *holistically evaluate a day care center which will lead to stronger*
33 *health and safety practices. Those efficiencies will reduce cost*
34 *pressure on the department and allow more providers to operate*
35 *in California, and thus open more spaces for children and parents*
36 *waiting for care.*

37 ~~SEC. 2. Section 1596.951 is added to the Health and Safety~~
38 ~~Code, to read:~~

39 ~~1596.951. (a) The following definitions shall apply to this~~
40 ~~section:~~

1 ~~(1) “Young infant” means a child 0 to 9 months of age~~

2 ~~(2) “Mobile infant” means a child 8 to 18 months of age.~~

3 ~~(3) “Toddler” means a child 16 to 36 months of age.~~

4 ~~(4) “Preschooler” means a child 3 years of age to kindergarten~~
5 ~~age.~~

6 ~~(5) “Mixed-age groups” means a group including toddlers and~~
7 ~~infants or toddlers and preschoolers in which the requirements for~~
8 ~~the youngest age group apply.~~

9 ~~(6) “Transition from classroom or program space” means group~~
10 ~~placement that is determined by a child's developmental readiness~~
11 ~~within three months before or after the child's birth date, except~~
12 ~~for a child with developmental delays, and the need of the entire~~
13 ~~group of children.~~

14 ~~(7) “Combination center” means a combination of child care~~
15 ~~center and schoolage child care center or child care center for~~
16 ~~mildly ill children that is owned and operated by one licensee at~~
17 ~~a common address.~~

18 ~~(b) The department shall adopt regulations, on or before January~~
19 ~~1, 2018, to develop and implement an integrated license for a day~~
20 ~~care center serving children from birth to kindergarten. In addition~~
21 ~~to the current safety and care standards, an applicant for the~~
22 ~~integrated license shall meet all of the following basic~~
23 ~~requirements:~~

24 ~~(1)~~

25 ~~—Group placement shall be determined by a child's developmental~~
26 ~~readiness within three months before or after the child's birth date,~~
27 ~~except for a child with developmental delays, and the needs of the~~
28 ~~entire group of children.~~

29 ~~(2) The day care center shall observe the following staffing~~
30 ~~ratios at the center:~~

31 ~~(A) The following ratio requirements shall apply to young~~
32 ~~infants and mobile infants:~~

33 ~~(i) There shall be a ratio of one teacher for every four infants~~
34 ~~in attendance.~~

35 ~~(ii) An aide may be substituted for a teacher if both of the~~
36 ~~following conditions are met:~~

37 ~~(I) There is a fully qualified teacher directly supervising no~~
38 ~~more than 12 infants.~~

39 ~~(II) The aide is responsible for the direct care and supervision~~
40 ~~of a group of no more than four infants.~~

1 ~~(iii) If children are engaged in activities away from the center,~~
2 ~~there shall be a minimum of one teacher for every two infants in~~
3 ~~attendance. This ratio may include authorized representatives of~~
4 ~~infants in care and adult volunteers to supplement the staff-infant~~
5 ~~ratio.~~

6 ~~(iv) The director and the assistant director may be counted in~~
7 ~~the staff-infant ratio if he or she is actually working with infants.~~

8 ~~(v) There shall be one teacher to visually observe every 12~~
9 ~~sleeping infants if the remaining staff necessary to meet the ratios~~
10 ~~specified in this section are immediately available at the center.~~

11 ~~(vi) An aide who is 18 years of age or older, and who meets the~~
12 ~~requirements in clause (ii), may visually observe 12 sleeping infants~~
13 ~~in place of a teacher.~~

14 ~~(vii) A center shall provide for the overlap of staff for different~~
15 ~~shifts so that continuity of care is assured.~~

16 ~~(B) The following requirements shall apply to toddlers:~~

17 ~~(i) There shall be a ratio of one teacher for every six children~~
18 ~~in attendance.~~

19 ~~(ii) An aide who is participating in on-the-job training may be~~
20 ~~substituted for a teacher if the aide is directly supervised by a~~
21 ~~teacher.~~

22 ~~(iii) The maximum group size with two teachers, or one teacher~~
23 ~~and one aide, shall not exceed 12 toddlers.~~

24 ~~(iv) There shall be one teacher to visually observe every 12~~
25 ~~sleeping toddlers if the remaining staff necessary to meet the ratios~~
26 ~~and group size requirements in this section are immediately~~
27 ~~available at the center.~~

28 ~~(v) An aide who is 18 years of age or older, and who meets the~~
29 ~~requirements in clause (ii), may visually observe 12 sleeping~~
30 ~~toddlers in place of a teacher.~~

31 ~~(vi) A center shall provide for overlap of staff for different shifts~~
32 ~~so that continuity of care is assured.~~

33 ~~(C) The following requirements shall apply to preschoolers:~~

34 ~~(i) There shall be a ratio of one teacher for every 12 children in~~
35 ~~attendance.~~

36 ~~(ii) The number of children in attendance shall not exceed~~
37 ~~licensed capacity.~~

38 ~~(iii) If children are engaged in activities outside of the center,~~
39 ~~there shall be one teacher for every 12 children. However, because~~
40 ~~activities outside of the center pose additional hazards to children,~~

1 the center shall make an effort to have a ratio of one adult for every
2 6 children through the use of adult volunteers.

3 (iv) ~~The center may use aides in a teacher-child ratio of one~~
4 ~~teacher and one aide for 15 preschoolers in attendance.~~

5 (v) ~~A teacher-child ratio of one teacher supervising 24 napping~~
6 ~~children is permitted if the remaining teachers necessary to meet~~
7 ~~the overall ratio and group size requirements are immediately~~
8 ~~available at the center.~~

9 (vi) ~~A teacher aide who is 18 years of age or older, and who~~
10 ~~meets the requirements listed above may supervise 24 napping~~
11 ~~children in place of a teacher. There shall be provision for overlap~~
12 ~~of staff for different shifts so that continuity of care is assured.~~

13 (D) ~~The following requirements shall apply to mixed age groups:~~

14 (i) ~~If groups of children of two age categories are commingled~~
15 ~~and the younger age group exceeds 50 percent of the total number~~
16 ~~of children present, the ratios for the entire group must meet the~~
17 ~~ratios required for the younger age group.~~

18 (ii) ~~If the younger age group does not exceed 50 percent of the~~
19 ~~total number of the children present, the teacher-child and~~
20 ~~adult-child ratios shall be computed separately for each group.~~

21 (3) ~~The day care center shall observe the following staffing~~
22 ~~ratios at the center during water activities:~~

23 (A) ~~The requirements for young infants and mobile infants are~~
24 ~~as follows:~~

25 (i) ~~A ratio of one adult to two infants shall be maintained during~~
26 ~~activities in or near any body of water.~~

27 (ii) ~~A ratio of one staff member to every four infants shall be~~
28 ~~maintained during activities in or near any container of water that~~
29 ~~a child can get into and get out of unassisted. This shall include,~~
30 ~~but not be limited to, wading pools, basins, or water trays.~~

31 (iii) ~~The ratio may include authorized representatives of infants~~
32 ~~in care and adult volunteers to supplement the staff-infant ratio.~~

33 (B) ~~The requirements for toddlers are as follows:~~

34 (i) ~~A ratio of one adult to two toddlers shall be maintained during~~
35 ~~activities in or near any body of water.~~

36 (ii) ~~A ratio of one staff member to every four toddlers shall be~~
37 ~~maintained during activities in or near any container of water that~~
38 ~~a child can get into and get out of unassisted. This shall include,~~
39 ~~but not be limited to, wading pools, basins, or water trays.~~

1 ~~(iii) This ratio may include authorized representatives of toddlers~~
2 ~~in care and adult volunteers to supplement the staff-toddler ratio.~~

3 ~~(C) The requirements for preschoolers are as follows:~~

4 ~~(i) There shall be at least one adult, who has a valid water-safety~~
5 ~~certificate on file at the center, present.~~

6 ~~(ii) During water activities in or near any of the following bodies~~
7 ~~of water, a ratio of not less than one adult, including teachers, to~~
8 ~~every six children, or fraction thereof, shall be maintained during~~
9 ~~water activities in or near any of the following bodies of water:~~

10 ~~(I) Swimming pool.~~

11 ~~(II) Any portable pool with sides so high that children using the~~
12 ~~pool cannot step out unassisted by a person or device, including,~~
13 ~~but not limited to, a ladder.~~

14 ~~(III) Potentially dangerous natural bodies of water including,~~
15 ~~but not limited to, oceans, lakes, rivers, and streams.~~

16 ~~(iii) Lifeguards or personnel supervising anyone other than~~
17 ~~center children at the water activity site shall not be included in~~
18 ~~this ratio.~~

19 ~~(D) The requirements for mixed, age groups are as follows:~~

20 ~~(i) If groups of children of two age categories are commingled~~
21 ~~and the younger age group exceeds 50 percent of the total number~~
22 ~~of children present, the ratios for the entire group shall meet the~~
23 ~~ratios and requirements for the younger age group.~~

24 ~~(ii) If the younger age group does not exceed 50 percent 50 of~~
25 ~~the total number of the children present, the teacher-child and~~
26 ~~adult-child ratios shall be computed separately for each group.~~

27 ~~(4) The day care center shall maintain the staff-child ratio for~~
28 ~~all age groups specified in paragraph (2) while transporting children~~
29 ~~in motor vehicles. The ratio shall be maintained whether the vehicle~~
30 ~~is moving or parked. Children in motor vehicles shall have constant~~
31 ~~adult supervision and shall not be left unattended under any~~
32 ~~circumstances.~~

33 ~~(5) The outdoor activity space at the day care center shall meet~~
34 ~~all of the following requirements:~~

35 ~~(A) Except as provided in subparagraph (D), the outdoor activity~~
36 ~~space for one age group shall be physically separate from space~~
37 ~~used by the other age groups.~~

38 ~~(B) The outdoor activity space shall be equipped with a variety~~
39 ~~of age-appropriate toys and equipment.~~

1 ~~(C) For infants, placement of playpens shall not create hazards~~
2 ~~to other infants or adults in the play area.~~

3 ~~(D) (i) If groups of children of two age categories are~~
4 ~~commingled and the younger age group exceeds 50 percent of the~~
5 ~~total number of children present, the age-appropriate toys and~~
6 ~~equipment shall meet the requirements for the younger age group.~~

7 ~~(6) The indoor activity space at the day care center shall meet~~
8 ~~all of the following requirements:~~

9 ~~(A) The requirements for young infants and mobile infants are~~
10 ~~as follows:~~

11 ~~(i) Indoor activity space for infants shall be physically separate~~
12 ~~from space used by toddlers and preschoolers.~~

13 ~~(ii) The center may use moveable walls or partitions to separate~~
14 ~~the age groups in the same room if each group has the total amount~~
15 ~~of square footage for indoor activity space required by this chapter.~~

16 ~~(iii) Moveable walls or partitions, if used, shall be at least four~~
17 ~~feet high, constructed of sound-absorbing material, and designed~~
18 ~~to minimize the risk of injury to infants.~~

19 ~~(iv) The calculation of indoor activity space for infants shall~~
20 ~~not include space designated and used for cribs.~~

21 ~~(v) The sleeping area for infants shall be physically separate~~
22 ~~from the indoor activity space. This separation shall be~~
23 ~~accomplished as specified in clause (iii).~~

24 ~~(vi) The various child care center components in a combination~~
25 ~~center may share office space, food preparation space, storage~~
26 ~~space and any other general-purpose space.~~

27 ~~(vii) The indoor activity space shall be equipped with a variety~~
28 ~~of age-appropriate washable toys and equipment.~~

29 ~~(B) The toddler and preschool programs shall be conducted in~~
30 ~~areas physically separate from those used by older or younger~~
31 ~~children, except when a planned activity is being conducted~~
32 ~~between two or more age groups. A plan to alternate use of outdoor~~
33 ~~play space is allowed.~~

34 ~~(C) If groups of children of two age categories are commingled~~
35 ~~and the younger age group exceeds 50 percent of the total number~~
36 ~~of children present, the indoor activity space requirements for the~~
37 ~~entire group shall meet the indoor activity space requirements~~
38 ~~required for the younger age group.~~

39 ~~SEC. 2. Section 1596.951 is added to the Health and Safety~~
40 ~~Code, to read:~~

1 1596.951. (a) The department shall, in consultation with
2 stakeholders, adopt regulations on or before January 1, 2018, to
3 develop and implement a single integrated license for a day care
4 center serving children from birth to kindergarten. Regulations
5 adopted pursuant to this section shall include both of the following:

6 (1) Age-appropriate transition periods that do all of the
7 following:

8 (A) Allow children to transition from one age group to another
9 age group up to three months before or three months after their
10 birthday.

11 (B) Take the needs of the whole age group into consideration
12 in order to move children together.

13 (C) Consider continuity of care of the children and parents
14 being served.

15 (D) Consider the needs of the day care center licensees to
16 maximize spaces being used.

17 (2) A requirement that an integrated license being issued to a
18 new or current day care center licensee list the age groups of
19 children being served at the day care center for the purposes of
20 license inspections, data collection management, and county needs
21 assessments.

22 (b) (1) Between January 1, 2018, and December 31, 2018, a
23 day care center license shall be converted to a single integrated
24 child care license upon annual renewal of the license. The licensee
25 shall not be required to pay an additional fee to replace an existing
26 license with the new single integrated license other than the annual
27 licensing fee. A new applicant for a single integrated license may
28 be charged a fee commensurate with the previous cost for dual
29 licenses.

30 (2) Until an existing day care center license has been replaced
31 with an integrated license, a day care center licensee shall
32 maintain a day care center that meets regulatory standards for
33 the age groups of children that are being cared for at the day care
34 center, and standards for inspection of a day care center shall be
35 based on the current license.

36 (c) Stakeholders consulted in adopting regulations pursuant to
37 this section shall include, but are not limited to, the State
38 Department of Education, California Association for the Education
39 of Young Children, Early Edge California, First 5 California,
40 Children Now, Alliance for Early Success, California Head Start

1 *Association, California Child Development Administrators*
2 *Association, California Child Care Resource and Referral Network,*
3 *California Child Care Coordinators Association, Infant*
4 *Development Association, the Western Office of Zero to Three,*
5 *L.A. Alliance, Title 5 funded providers, and private providers.*

6 SEC. 3. Section 1596.955 of the Health and Safety Code is
7 amended to read:

8 1596.955. (a) The department shall develop guidelines and
9 procedures to permit licensed child day care centers serving
10 preschool age children to create a special program component for
11 children ~~between the ages of 18 months~~ 18 and 30 months *of age*.
12 This optional toddler program shall be subject to the following
13 basic conditions:

14 (1) An amended application is submitted to and approved by
15 the department.

16 (2) No child shall be placed in the preschool program before
17 the age of 30 months without parental permission. A child who is
18 more than 30 months of age may participate in the toddler program
19 with parental permission.

20 (3) Parents give permission for the placement of their children
21 in the toddler program.

22 (4) A ratio of six children to each teacher is maintained for all
23 children in attendance at the toddler program. An aide who is
24 participating in on-the-job training may be substituted for a teacher
25 when directly supervised by a fully qualified teacher.

26 (5) The maximum group size, with two teachers, or one fully
27 qualified teacher and one aide, does not exceed 12 toddlers.

28 (6) The toddler program is conducted in areas separate from
29 those used by older or younger children. Plans to alternate use of
30 outdoor play space may be approved to achieve separation.

31 (7) All other preschool regulations are complied with.

32 (b) The toddler program shall be considered an extension of the
33 preschool license, without the need for a separate license.

34 (c) The department shall immediately prepare proposed
35 regulations for public hearing which would consider the foregoing
36 basic conditions as well as any additional health and safety
37 safeguards deemed necessary for this age group.

38 (d) The guidelines in subdivision (a) shall remain in force and
39 effect only until regulations implementing this section are adopted
40 by the department.

1 (e) Commencing January 1, 2016, a day care center with a
2 toddler component pursuant to this section shall extend the toddler
3 component to serve children between 18 months to three years of
4 age of age. It is the intent of the Legislature to provide continuity
5 of care to California's children and parents in the implementation
6 of this subdivision.

7 ~~(e)–~~

8 (f) This section shall remain in effect only until January 1, 2018,
9 and as of that date is repealed, unless a later enacted statute, that
10 is enacted before January 1, 2018, deletes or extends that date.

11 SEC. 4. Section 1596.956 of the Health and Safety Code is
12 amended to read:

13 1596.956. (a) The department shall develop guidelines and
14 procedures to authorize licensed child day care centers serving
15 infants to create a special program component for children between
16 ~~the ages of 18 months~~ 18 and 30 months of age. The optional
17 toddler program shall be subject to the following basic ~~conditions~~.
18 ~~conditions:~~

19 (1) An amended application shall be submitted to and approved
20 by the department.

21 (2) ~~No A child under the age of younger than 18 months not~~
22 shall be moved into the toddler program. A child who is ~~more~~
23 older than 18 months of age shall not be required to be in the
24 toddler program.

25 (3) Parents shall give permission for the placement of their
26 children in the toddler program.

27 (4) A ratio of six children to each teacher shall be maintained
28 for all children in attendance at the toddler program. An aide who
29 is participating in ~~on-the-job training~~ on-the-job training may be
30 substituted for a teacher when directly supervised by a fully
31 qualified teacher.

32 (5) The maximum group size, with two teachers, or one fully
33 qualified teacher and one aide, shall not exceed 12 toddlers.

34 (6) The toddler program shall be conducted in areas separate
35 from those used by older or younger children. Plans to alternate
36 use of outdoor play space may be approved to achieve separation.

37 (7) All other infant center regulations shall be complied with.

38 (b) The toddler program shall be considered an extension of the
39 infant center license, without the need for a separate license.

1 (c) The department shall immediately prepare proposed
2 regulations for public hearing that would consider the foregoing
3 basic conditions as well as any additional health and safety
4 safeguards deemed necessary for this age group.

5 (d) The guidelines in subdivision (a) shall remain in force and
6 effect only until regulations implementing this section are adopted
7 by the department.

8 *(e) Commencing January 1, 2016, a day care center with a*
9 *toddler component pursuant to this section shall extend the toddler*
10 *component to serve children between 18 months to three years of*
11 *age. It is the intent of the Legislature to provide continuity of care*
12 *to California's children and parents in the implementation of this*
13 *subdivision.*

14 ~~(e)~~

15 (f) This section shall remain in effect only until January 1, 2018,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2018, deletes or extends that date.

18 SEC. 5. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.