

AMENDED IN ASSEMBLY MAY 1, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2196

Introduced by Assembly Member Spitzer
(Coauthor: Assembly Member Maze)

February 22, 2006

An act to ~~add Section 1596.794 to~~ *amend Section 1596.857 of the Health and Safety Code, relating to child day care.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2196, as amended, Spitzer. Child day care: information: registered sex offenders.

The existing California Child Day Care Facilities Act provides for the licensure and regulation of specified types of child day care facilities and day care homes responsible for the regular care of children. *Existing law requires each child day care facility to post a written notice accessible to parents and guardians.* A willful violation of these provisions is a crime.

This bill would require ~~each child day care facility, as defined, and family day care home, as defined, that offers a program of services for which there is a contract or agreement between any parent or guardian and the day care facility or family day care home for the regular care of a child, entered into on or after January 1, 2007, to provide the parent or guardian with specified information about registered sex offenders~~ *that the notice to include information stating that the registered sex offender database is made available to the public via a specified Internet Web site maintained by the Department of Justice as provided. The bill would require the licensee to provide a copy of the Family Child Care Home Notification of Parents' Rights prepared by*

the State Department of Social Services, and would grant the provider immunity from liability.

By creating a new 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. Section 1596.857 of the Health and Safety Code
2 is amended to read:
3 1596.857. (a) Upon presentation of identification, the
4 responsible parent or guardian of a child receiving services in a
5 child day care facility has the right to enter and inspect the
6 facility without advance notice during the normal operating hours
7 of the facility or at any time that the child is receiving services in
8 the facility. Parents or guardians when inspecting shall be
9 respectful of the children’s routines and programmed activities.
10 The facility shall inform parents and guardians of children
11 receiving services in the facility of the right of the parents and
12 guardians to inspect the facility pursuant to this section.
13 (b) No child day care facility shall discriminate or retaliate
14 against any child or parent or guardian on the basis or for the
15 reason that the parent or guardian has exercised his or her right
16 under this section to inspect the facility or has lodged a complaint
17 with the department against a facility.
18 (c) If any child day care facility denies a parent or legal
19 guardian the right to enter and inspect a facility or retaliates, the
20 department shall issue the facility a warning citation. For any
21 subsequent violation of this right, the department may impose a
22 civil penalty upon the facility of fifty dollars (\$50) per violation.
23 The department may take any appropriate action, including
24 license revocation.

1 (d) Each child day care facility shall permanently post in a
2 facility location accessible to parents and guardians a written
3 notice, available from the department, of the right to make an
4 inspection pursuant to this section and the prohibition against
5 retaliation and the right to file a complaint. *In addition, this*
6 *notice shall include information stating that the specified*
7 *registered sex offender database is available to the public via an*
8 *Internet Web site maintained by the Department of Justice as*
9 *www.meganslaw.ca.gov.* The department shall make this written
10 notice available to child day care facility licensees, and shall
11 include on this notice a statement of the right of the parents and
12 guardians to review licensing reports of facility visits and
13 substantiated complaints against the facility on the site of the
14 facility, pursuant to Section 1596.859.

15 (e) *At the time of acceptance of each child into a child day*
16 *care facility after January 1, 2007, the licensee shall provide the*
17 *child's parent or guardian with a copy of the Family Child Care*
18 *Home Notification of Parents' Rights provided by the State*
19 *Department of Social Services, which shall include information*
20 *stating that the specified registered sex offender database is*
21 *available to the public via an Internet Web site maintained by the*
22 *Department of Justice as www.meganslaw.ca.gov.*

23 (f) *Upon delivery of the Family Child Care Home Notification*
24 *of Parents' Rights required pursuant to subdivision (e) to a*
25 *parent or guardian, a provider is not required to provide any*
26 *additional information regarding the location and proximity of*
27 *registered sex offenders who reside in the community where the*
28 *child care facility or family day care home is located. The*
29 *provision of the information required by this section to parents*
30 *and guardians of a child in their care shall not subject the*
31 *provider to any liability or cause of action against the provider*
32 *by a registered sex offender identified in the database.*

33 ~~(e)~~

34 (g) Notwithstanding any other provision of this section, the
35 person present who is in charge of a child day care facility may
36 deny access to an adult whose behavior presents a risk to children
37 present in the facility and may deny access to noncustodial
38 parents or guardians if so requested by the responsible parent or
39 legal guardian.

1 SECTION 1. ~~Section 1596.794 is added to the Health and
2 Safety Code, to read:~~

3 ~~1596.794. (a) Notwithstanding any other provision of law,
4 each child day care facility or family day care home that offers a
5 program of services for which there is a contract or agreement
6 entered into on or after January 1, 2007, between any parent or
7 guardian and the day care facility or family day care home for the
8 regular care of any child, shall in accordance with subdivision
9 (b), provide the parent or guardian with information about
10 specified registered sex offenders that is made available to the
11 public via an Internet Web site maintained by the Department of
12 Justice.~~

13 ~~(b) (1) Every contract or agreement for child care to which
14 subdivision (a) applies shall contain the following notice:~~

15 ~~-
16 — Notice: Pursuant to Section 290.46 of the Penal Code,
17 information about specified registered sex offenders is made
18 available to the public via an Internet Web site maintained by
19 the Department of Justice at <www.meganslaw.ca.gov>.
20 Depending on an offender’s criminal history, this
21 information will include either the address at which the
22 offender resides or the community of residence and ZIP
23 Code in which he or she resides.~~

24 ~~-
25 (2) Upon delivery of the notice required in this subdivision to
26 a parent or guardian, a provider is not required to provide any
27 additional information regarding the location and proximity of
28 registered offenders who reside in the community where the day
29 care facility or day care home is located. The information in the
30 notice shall be deemed to be adequate to inform parents or
31 guardians about the existence of a statewide database containing
32 information on the location of registered sex offenders, and the
33 provision of the notice to parents and guardians of a child in their
34 care shall not subject the provider to any liability or cause of
35 action against the provider by a registered sex offender identified
36 in the database.~~

37 SEC. 2. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

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

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