

AMENDED IN ASSEMBLY MAY 2, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2641

Introduced by Assembly Member Calderon

February 25, 2000

An act to amend Section ~~1566~~ of 1520.5 of, and to add Section 1538.3 to, the Health and Safety Code, relating to residential facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2641, as amended, Calderon. Residential care facilities.

Existing law permits a city and county to request denial of a residential care facility license on the basis of overconcentration of residential care facilities.

This bill would permit a city and county to submit to the Director of Social Services additional documentation and evidence regarding the siting of a proposed residential care facility designed for 6 or fewer residents.

The bill would require the director to consider this evidence and would permit denial of the proposed license if the director makes certain findings.

The bill would also require that, when a local law enforcement agency investigates a complaint in a residential facility, the facility inform the law enforcement agency as to the state agency responsible for licensing the facility, and that the law enforcement agency provide a copy of its incident report to that agency.

Because the bill would impose additional duties upon local agencies, the bill would create 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law expresses the Legislature’s policy that each city and county should encourage the development of sufficient numbers and types of residential care facilities to meet local need.~~

~~This bill would change the Legislature’s policy on residential care facilities. The new policy would be to authorize each city and county to determine for itself the sufficient number and types of residential care facilities to meet local need.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

- 1 ~~SECTION 1. Section 1566 of the Health and Safety~~
- 2 ~~SECTION 1. Section 1520.5 of the Health and Safety~~
- 3 ~~Code is amended to read:~~
- 4 1520.5. (a) The Legislature hereby declares it to be
- 5 the policy of the state to prevent overconcentrations of
- 6 residential care facilities which impair the integrity of
- 7 residential neighborhoods. Therefore, the director shall
- 8 deny an application for a new residential care facility
- 9 license if the director determines that the location is in a
- 10 proximity to an existing residential care facility that
- 11 would result in overconcentration.



1 (b) As used in this section, “overconcentration” means
2 that if a new license is issued, there will be residential care
3 facilities which are separated by a distance of 300 feet or
4 less, as measured from any point upon the outside walls
5 of the structures housing those facilities. Based on special
6 local needs and conditions, the director may approve a
7 separation distance of less than 300 feet with the approval
8 of the city or county in which the proposed facility will be
9 located.

10 (c) At least 45 days prior to approving any application
11 for a new residential care facility, the director, or county
12 licensing agency, shall notify, in writing, the city or
13 county planning authority in which the facility will be
14 located, of the proposed location of the facility.

15 (d) (1) Any city or county may request denial of the
16 license applied for on the basis of overconcentration of
17 residential care facilities.

18 (2) *A city or county may submit to the director*
19 *additional documentation and evidence regarding the*
20 *siting of a proposed facility designed for six or fewer*
21 *residents. The documentation may include, but is not*
22 *limited to, a listing of other state-licensed residential*
23 *facilities, unlicensed residential facilities, or other uses*
24 *located in the immediate vicinity of the proposed site.*

25 (3) *The director shall investigate, review, and*
26 *consider any information submitted by the city or county*
27 *pursuant to paragraph (2), in order to determine*
28 *whether issuance of the license would result in either the*
29 *siting of the proposed residential care facility in the*
30 *immediate vicinity of other uses that are not compatible*
31 *with the proposed facility or a significant cumulative*
32 *impact that imposes a unique burden on the*
33 *neighborhood in which the proposed facility is to be*
34 *located.*

35 (4) *The director may deny an application, and request*
36 *the applicant to consider alternate siting locations, if he*
37 *or she finds that the siting of the residential care facility*
38 *at the proposed location is not appropriate due to the*
39 *existence of circumstances described in paragraph (1) or*
40 *(3). If, after investigation, review, and consideration of*



1 *documentation or evidence submitted pursuant to*
2 *paragraph (2), the director approves the siting of the*
3 *proposed facility, the approval shall include written*
4 *findings in the public record regarding how that decision*
5 *meets the requirements of this subdivision.*

6 *(5) This subdivision shall not be interpreted to*
7 *authorize or require the director to take an action that*
8 *would violate the federal Fair Housing Amendments Act*
9 *of 1988 (42 U.S.C. Sec. 3601 and following).*

10 (e) Nothing in this section authorizes the director, on
11 the basis of overconcentration, to refuse to grant a license
12 upon a change of ownership of an existing residential care
13 facility where there is no change in the location of the
14 facility.

15 (f) Foster family homes and residential care facilities
16 for the elderly shall not be considered in determining
17 overconcentration of residential care facilities, and
18 license applications for those facilities shall not be denied
19 upon the basis of overconcentration.

20 (g) Any transitional shelter care facility as defined in
21 paragraph (11) of subdivision (a) of Section 1502 shall not
22 be considered in determining overconcentration of
23 residential care facilities, and license applications for
24 those facilities shall not be denied upon the basis of
25 overconcentration.

26 *SEC. 2. Section 1538.3 is added to the Health and*
27 *Safety Code, to read:*

28 *1538.3. When a local law enforcement agency*
29 *investigates a complaint at a residential facility licensed*
30 *pursuant to this code, the facility shall inform the law*
31 *enforcement agency which state agency is responsible for*
32 *licensing the facility. The local law enforcement agency*
33 *shall file a copy of the incident report on the residential*
34 *facility with that state agency.*

35 *SEC. 3. Notwithstanding Section 17610 of the*
36 *Government Code, if the Commission on State Mandates*
37 *determines that this act contains costs mandated by the*
38 *state, reimbursement to local agencies and school*
39 *districts for those costs shall be made pursuant to Part 7*
40 *(commencing with Section 17500) of Division 4 of Title*



1 2 of the Government Code. If the statewide cost of the
2 claim for reimbursement does not exceed one million
3 dollars (\$1,000,000), reimbursement shall be made from
4 the State Mandates Claims Fund.

5 Code is amended to read:

6 1566. ~~The Legislature hereby declares that it is the~~
7 ~~policy of this state that each county and city shall~~
8 ~~determine for itself the sufficient numbers and types of~~
9 ~~residential care facilities as are commensurate with local~~
10 ~~need.~~

11 ~~The provisions of this article shall apply equally to any~~
12 ~~chartered city, general law city, county, city and county,~~
13 ~~district, and any other local public entity.~~

14 ~~For the purposes of this article, "six or fewer persons"~~
15 ~~does not include the licensee or members of the licensee's~~
16 ~~family or persons employed as facility staff.~~

