

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 2206 (Addis) – As Introduced February 7, 2024

**SUBJECT:** Child daycare facilities: fire clearance requirements

**SUMMARY:** Requires the California Department of Social Services (CDSS) to revise its fire safety clearance approval regulations on or before July 1, 2025, to obtain a childcare licensure. Specifically, **this bill:**

- 1) Requires CDSS, notwithstanding any other law, to revise its regulations on or before July 1, 2025, to do all of the following:
  - a) Allow children with exceptional needs, as defined in existing law, to be accepted to and attend a licensed childcare or child development program before the program has obtained a revised fire safety clearance approval by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, under any of the following circumstances:
    - i) The childcare or child development program meets applicable requirement of the federal Americans with Disabilities Act of 1990;
    - ii) The childcare or child development program has submitted a safety clearance application within the previous 10 years that included a plan to serve nonambulatory children, and the application was approved; and,
    - iii) The child with exceptional needs is reasonably mentally and physically capable of understanding and responding to instructions to evacuate a building, regardless of whether the child uses assistive equipment such as a walker, crutches, or a wheelchair.
  - b) Allow a childcare or child development program up to six months to obtain a revised fire safety clearance after accepting a nonambulatory child with exceptional needs, and provide that a program that fails to obtain a revised fire safety clearance within that period may be required to temporarily terminate services to a nonambulatory child until a revised fire safety clearance is obtained; and,
  - c) Clarify that a fire clearance is not required to state the name, disability type, or ambulatory restrictions of any specified child, and is required to include only the number of nonambulatory children the provider is approved to serve and the plan for evacuating nonambulatory children in case of fire.

**EXISTING LAW:**

- 1) States legislative intent that all families have access to childcare and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children and

enhancing their parenting skills through participation in childcare and development programs. (Welfare and Institutions Code [WIC] § 10207.5)

- 2) Makes a series of legislative findings regarding child daycare facilities' contribution to a child's emotional, cognitive and educational development; the intent of this state to provide a comprehensive, quality system for licensing child daycare facilities to ensure a quality daycare environment; and that the system of licensure requires a special understanding of the unique characteristics and needs of the children served by child daycare facilities. (Health & Safety Code [HSC] § 1596.72 (a-c))
- 3) States legislative intent to establish within CDSS an organizational structure to separate licensing of child daycare facilities from other types of licensed facilities and that good quality child daycare services are an essential service for working parents. (HSC § 1596.72(d)(e))
- 4) Establishes the "Child Care and Development Services Act" to provide childcare and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years of age and their parents including a full range of supervision, health, and support services through full- and part-time programs, regardless of ethnic status, cultural background, or special needs. (WIC § 10207 *et seq.*)
- 5) Provides the purposes of the California Child Day Care Facilities Act, which include streamlining the administration of childcare licensing and thereby increase the efficiency and effectiveness of this system; and encouraging the development of licensing staff with knowledge and understanding of children and childcare needs. (HSC § 1596.73)
- 6) Requires any person or entity operating, as specified, a child daycare facility in California to have a current valid license from CDSS. (22 California Code of Regulations [CCR] § 101156(a))
- 7) Requires all childcare providers to secure and maintain a fire clearance in order to be licensed in California. (HSC § 1596.809)
- 8) Provides that a prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency or the State Fire Marshal, whichever has primary fire protection jurisdiction. Further provides that the prospective applicant shall be notified of the provisions of Section 13235 of the HSC, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations. (HSC § 1596.809)
- 9) Establishes the "Lanterman Developmental Disabilities Act", entitling individuals with developmental disabilities the right to services and supports that enable them to live a more independent and normal life. (WIC § 4500 *et seq.*)

10) Defines the following terms:

- a) “Childcare and development programs” to mean those programs that offer a full range of services for children from infancy to 13 years of age, for any part of a day, by a public or private agency, in centers and family childcare homes (FCCHs), which includes, but are not limited to, general childcare and development (CCTR), migrant childcare and development, childcare and development services for children with exceptional needs, FCCH education network, and alternative payment. (WIC § 10213.5(i))
- b) “Child daycare facility” to mean a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child daycare facilities include daycare centers, employer-sponsored childcare centers, and family daycare homes. (HSC § 1596.750)
- c) “Daycare center” to include infant centers, preschools, extended daycare facilities, and school age childcare centers. (HSC § 1596.76)
- d) “Family daycare home” to mean a facility that regularly provides care, protection, and supervision for 14 or fewer children, including children under 10 years of age who reside at the home, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away. (HSC § 1596.78)
- e) “Children with exceptional needs” to mean children under three years of age who have been determined to be eligible for early intervention services, as specified; or, children three to 21 years of age, inclusive, who have been determined to be eligible for special education and related services by an individualized education program (IEP) team; and, children who have active individualized family service plans (IFSP) and is actively receiving early intervention services or special education. (Education Code § 8205)
- f) “Nonambulatory persons” to mean persons unable to leave a building unassisted under emergency conditions, and includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. Specifies that a person who uses supportive restraints is deemed nonambulatory; Further specifies that a person is not deemed nonambulatory solely because they are deaf, blind, or prefers to use a mechanical aid. (HSC §§ 13131; 22 CCR § 101152 (n)(1)(C); 22 CCR § 101152 (n)(1)(A-B); 22 CCR§ 102371 (a)(1))

11) Requires state-licensed facilities, including childcare centers, to obtain a fire clearance before admitting a nonambulatory person. (22 CCR § 80020(b)(2))

12) Requires all childcare centers to secure and maintain a fire clearance approval by the city or county fire department, the district providing fire protection services, or the State Fire Marshal. Requires the request for fire clearance to be made through and maintained by CDSS. (22 CCR § 101171(a))

13) Requires the applicant to notify CDSS if the childcare center plans to enroll children who are nonambulatory so that an appropriate fire clearance, approved by the city or county

fire department, the district providing fire protection services, or the State Fire Marshal can be obtained prior to the acceptance of such children. (22 CCR § 101171(b))

- 14) Requires licensees of a childcare center requesting the addition of a new infant, toddler, preschool, school-age or mildly ill child components to their single license childcare center to submit an amended Application for a Child Care Center License form (LIC 200A [3/23]), which is incorporated by reference; a program description; a sketch of the center showing where the children in each age component will be located; a schedule of outdoor activities; and if necessary, a fire clearance. (22 CCR § 101169 (a)(1)(A))
- 15) Permits CDSS to continue to review a previously denied application under specified circumstances and conditions, including, but not limited to the following: a fire clearance previously denied but now approved. (22 § CCR 101178(b)(2)(A))
- 16) Requires the number of children for which the childcare center is licensed to provide care and supervision be determined on the basis of CDSS' application review, which shall take into consideration the following:
  - a) The fire clearance specified in 11) and 12) above;
  - b) The licensee's/administrator's ability to comply with applicable laws and regulations;
  - c) Physical features of the childcare center, including available space, that are necessary;
  - d) Number of available staff to meet the care and supervision needs of the children; and,
  - e) Any restrictions pertaining to the specific category of childcare center. (22 CCR § (b)(2))
- 17) Authorizes CDSS to issue provisional licenses to operate daycare facilities which the director determines are in substantial compliance with the provisions of the licensure requirements and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. Requires the director, in determining whether any life safety risks are involved, the completion of all applicable fire clearances and criminal record clearances as otherwise required by CDSS' rules and regulations. (22 CCR § 101181(a)(1))
- 18) Permits the licensee, when a licensee proposes a change in capacity, a change in the number of children, ages of children, or a change in location, to, in lieu of filing an entirely new Application Booklet (LIC 281A [12/96]) and supporting documents, as specified, transfer documents from an existing application to a new application. In such a case, the new application documents must include:
  - a) An Application for a Child Day Care Center License (LIC 200A [3/23]);
  - b) A fire clearance, if necessary; and,
  - c) An update of existing application documents affected by the change, as determined by CDSS. (22 CCR § 101185(b))

- 19) Defines “Completed Application” to mean all required information and documentation that has been provided to CDSS, including the completed application form and, for a large family childcare home, a fire clearance; and that a home visit has been completed. (22 CCR § 102352(c)(6))
- 20) Requires a large family daycare home secure a fire clearance approval by the city or county fire department, the district providing fire protection services, or the State Fire Marshal. (22 CCR § 102371(a))
- 21) Exempts a fire clearance from being required for a small family childcare home. (22 CCR § 102371(b))

Federal law:

- 1) Establishes the “Americans with Disabilities Act (ADA) of 1990”, instituting comprehensive national standards to eliminate discrimination against individuals with disabilities in various areas of public life. (42 United States Code [U.S.C.] § 12101 *et seq.*)
- 2) Prohibits discrimination by a daycare center or educational entity when admitting a child with disabilities into the program. (42 U.S.C. § 12181 *et seq.*)
- 3) Establishes the “Individuals with Disabilities Education Act” (IDEA), governing how states and public agencies provide early intervention, special education, and related services to children with disabilities. Further addresses the educational needs of children with disabilities from birth to 21 years of age and requires that infants and toddlers with disabilities receive early intervention services from birth through three years of age, also known as an IFSP. (20 U.S.C. § 1431 *et seq.*)

**FISCAL EFFECT:** Unknown, this bill has not been analyzed by a fiscal committee.

**COMMENTS:**

**Background:** *Licensed Childcare.* The California Child Day Care Facilities Act governs the licensure, maintenance, and operation of child daycare centers and family daycare homes in the state. This law and the associated regulations found in Title 22 of the CCR establish, among other things, general health and safety requirements, staff-to-child ratios, and provider training requirements. Daycare centers include, infant centers, preschools, extended daycare facilities, and school age childcare centers. CDSS’s Community Care Licensing Division (CCLD) has the responsibility of licensing and monitoring the state’s childcare facilities, which includes childcare centers (CCCs) and FCCHs.

CCCs may be part of a large childcare corporation or locally owned and are usually located in commercial buildings, schools, religious facilities, public buildings, or private buildings. CCC’s can accommodate infants, toddlers, preschoolers, and school-age children. Separate licenses are required to care for infants, preschoolers, and school-age children, although a center may be licensed to care for all three age groups at one site. Depending on their age, children receive care in separate areas at the center for safety and activity reasons.

FCCHs are operated in the licensee's own home, which may be rented, leased, or owned, and is permitted to be in a mobile home park or an apartment. FCCHs provide non-medical care and supervision in a family-like setting with all the daily activities associated with home. FCCHs are further categorized into small (eight or fewer children) and large homes (as many as 14) based on the size of the childcare group and the ages of the children.

The January 2024 CDSS Child Care Transition Quarterly Report found that 158,959 Californian children were enrolled in FCCHs and an additional 124,708 were served in a CCC in fiscal year 2022-23. Furthermore, 70% of children served in a CCC are Latinx, while 75% of children enrolled in an FCCH are Latinx, according to 2019 data by the Children's Equity Project.

*Children with Exceptional Needs.* Early childhood is a period of rapid development across physical, cognitive, social, and behavioral domains. Sometimes, however, this development may deviate from the typical trajectory, resulting in a diagnosis of disability or delay for some children. These children represent an estimated 15% of the United States' (U.S.) childhood population. As a way to protect this group, the federal government passed IDEA in 1975, which ensures that infants and toddlers with developmental delays receive early intervention services and requires schools to provide special education services to school-aged children with disabilities to meet their unique educational needs. IDEA also guarantees the right to fully take part in school life, including after-school activities.

Once an infant or toddler aged zero to three years of age is found eligible for early intervention services, an IFSP is finalized with the goal of supporting infants and toddlers with developmental delays. Similar to infants or toddlers, once a child qualifies for special education, the school schedules an IEP meeting with the child's parents or guardians, teachers, special education personnel, and relevant professionals to address the child's needs, goals, and necessary services and accommodations. Once IFSP and IEPs are finalized, the necessary services are implemented.

Existing state law defines "children with exceptional needs" which aligns with IDEA to mean children under three years of age who have been determined to be eligible for early intervention services, as specified; or, children three to 21 years of age, inclusive, who have been determined to be eligible for special education and related services by an IEP team; and, children who have active IEPs and IFSPs and are actively receiving early intervention services or special education.

The California Department of Education (CDE) reports providing special education services to 813,528 individuals, ranging from newborns to 22 years of age during the 2022-23 academic year. The number of students receiving IDEA services has been gradually increasing. From the school year 2009-10 through 2020-21, the number of students ages three to 21 years of age who received special education services increased from 6.5 million to 7.2 million. Research shows that children with disabilities often benefit from early intervention programs and specialized services, including enhanced cognitive, social, emotional, and communication development.

In addition to defining "children with exceptional needs", state law also has a definition for "nonambulatory persons" to mean persons unable to leave a building unassisted under emergency conditions, which includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger. It also includes persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. Existing law does not have a definition for "nonambulatory children," which this bill invokes.

This bill requires CDSS to allow children with exceptional needs to attend licensed childcare programs even before obtaining a revised fire safety clearance. This is contingent upon the program meeting requirements of the ADA and submitting a safety clearance application within the past 10 years, including a plan to serve nonambulatory children. Additionally, the child must demonstrate the ability to understand and respond to evacuation instructions independently. These provisions attempt to ensure accessibility and inclusion of children with exceptional needs in childcare programs, aligning with the goals of the ADA.

*Disparities in Access to Childcare Services for Children with Disabilities.* While finding childcare presents challenges for all families, those with children with disabilities face particularly daunting obstacles, despite being granted protections and resources through IDEA. The American Progress analyzed data from the 2016 Early Childhood Program Participation Survey and found that parents of disabled children disproportionately experience at least some difficulty finding childcare (34%) compared with parents of nondisabled children (25%). One reason is that early intervention services exclude childcare options. Parents also report a lack of available slots. A 2024 report titled “*California’s Child Care System Serves Only a Fraction of Eligible Children*” by the California Budget and Policy Center noted that only one in nine of California’s children eligible for childcare actually received services in 2022. While the number of new subsidized childcare spaces has increased – 146,000 new spaces were added since 2021-22 – the number of new slots has not kept pace with the growing demand. In other words, of the 2,161,000 children eligible for subsidized care, only 231,400 were enrolled. The 2024-25 Budget aims to increase the number of funded slots to 200,000 by 2026-27; however, there is no clear plan to fund the remaining 54,000.

Another significant barrier to accessing childcare is the scarcity of specialized childcare facilities equipped to cater to the diverse needs of children with disabilities. The ADA prohibits discrimination against individuals with exceptional needs, including children with disabilities in need of childcare. Specifically, the ADA stipulates that childcare programs cannot exclude children with disabilities unless including them would require a “fundamental alteration of the program” and that programs must make “reasonable modifications” to integrate individuals with exceptional needs. While many childcare facilities may accommodate some level of diversity, childcare programs often operate with tight budgets that make financing accommodations difficult. For parents who have children with physical disabilities, parents or guardians must eliminate any programs that make climbing steps difficult or that do not have a ramp for wheelchairs.

Due to the limited availability and accessibility of childcare services for children with disabilities, they are more likely than their nondisabled counterparts to receive care from multiple sources, often relying on extended family or chosen family for childcare. Some parents report even having to take on the full responsibility of childcare due to their children’s more medically complex needs and concerns about their children’s health or safety in group settings. Many of these parents report leaving their jobs, not taking a job, or making significant changes to their jobs due to problems with childcare. The Center for American Progress reports that one in five parents of children with disabilities make at least one of these career sacrifices each year nationwide.

*Fire Clearance Process & Requirements.* Even when childcare facilities attempt to enroll children with physical disabilities, existing state law requires all childcare facilities to obtain an

approved fire clearance first from a fire marshal in order to be licensed. However, when it comes to enrolling nonambulatory children and seeking to obtain an initial or revised fire clearance, per regulations, only CCCs and large FCCHs are required to obtain an approved fire clearance before enrolling a nonambulatory child while small FCCHs are exempt from this requirement.

Prior to submitting an application for an initial fire clearance to CDSS' CCLD, any childcare facility may request that a local fire authority, as listed above, conduct a pre-inspection to help facility owners identify necessary changes to meet requirements. CCLD then fills out and submits a Fire Safety Inspection Request form to the fire authority having jurisdiction, which includes information on the capacity of licensed ambulatory or nonambulatory occupants covered by the request. The fire authority then conducts a thorough fire safety inspection of the facility to assess compliance with fire safety regulations. If the facility meets all requirements, the fire clearance is granted, and the childcare facility receives an official document indicating they have passed the fire safety inspection.

For CCCs, when it comes to requesting the addition of a new infant, toddler, preschool, school-age, or mildly ill child, a licensee must submit an amended Application for a Child Care Center License form, which includes, among other things, a fire clearance, if necessary. Regulations further stipulate that CCCs are required to notify CDSS if the CCC plans to enroll children who are nonambulatory, as defined, so that an approved fire clearance can be obtained prior to the acceptance of such children. When it comes to requesting a revised fire clearance for CCCs and FCCHs, such as a renewal or capacity change, CCLD is required to insert the capacity of the previous clearance. Likewise, if the CCC or large FCCH is intended to house a mix of ambulatory, nonambulatory, and bedridden children, CCLD must show the new total of the three types of occupants. These regulations could be interpreted as requiring a CCC or large FCCH that is seeking to enroll a nonambulatory child at one point in time must then seek to obtain an additional revised fire clearance six months later if that same CCC or large FCCH sought to enroll an additional nonambulatory child.

Existing law states that a final fire clearance inspection for a child daycare facility must be completed within 30 days of receipt of the request for the final inspection. However, advocates say it takes longer. During this time, a childcare provider cannot legally or safely provide care to these children, even though it is an illegal form of discrimination under the ADA. Parents or guardians either have to outright eliminate these programs from the start or wait to be denied by a childcare provider – either through a fire clearance denial or simply because a childcare provider does not want to go through the trouble of tackling administrative or modification hoops.

*Childcare and Development Infrastructure Grant Program (IGP)*. On July 23, 2021, the Childcare and Development IGP allocated \$250 million to invest in childcare facility infrastructure across California. This investment was increased by \$100.5 million, for a total of \$350 million in the 2022-23 budget. Applicants were able to apply for the Minor Renovation and Repair Infrastructure Grant or the New Construction and Major Renovation Grant. Eligible projects under the latter program allowed facilities to use funding to comply with ADA, with respect to indoor and outdoor spaces, and fire safety projects.

While the Childcare and Development IGP is still in progress, preliminary data shows that CDSS received 5,351 total applications, totaling \$386 million in requests. Of the 3,854 applications that are being funded, 9.24% planned to do ADA upgrades and 12.25% planned to do fire safety

projects. Examples of the types of projects as it relates to ADA upgrades and fire safety projects in childcare settings include:

#### ADA Upgrades

- Indoor and outdoor ramps for wheelchair/power driven mobility devices
- Bathroom upgrades (sinks, barriers, toilets)
- Elevator installation
- Sloped mats
- Adding ADA compliant parking spaces and/or restriping parking areas
- Moving walls
- Changing or widening doorway frames, entrances, hallways, entry gates, etc.
- Replacing fixtures
- Flooring or carpeting, including installing seamless flooring
- Installing noise dampening solutions to walls and ceilings
- Purchasing signage with braille inlay
- Lowering counter tops, fixtures, and water fountains
- Adding accessible outdoor play structures
- Providing a quiet sensory zone
- Purchasing sensory sensitive lighting
- Limiting the use of bells, buzzers, and flashing lights
- Installing soft surfacing in indoor and/or outdoor environments

#### Fire Safety Projects

- Tree removal and other upgrades to create 30 feet of defensible space around property
- Upgrading fire alarm systems and sprinklers
- FCCH Expansion: Fire rated doors for second egress through the garage
- Upgrade windows

- HVAC and ventilation
- Upgrading roof, construct with fire-resistant materials

**Author’s Statement:** According to the Author, “All children and families deserve unrestricted access to childcare, regardless of their ability. Revising these outdated regulations is a simple step that ensures providers can immediately enroll children with disabilities into their programs while maintaining rigorous safety standards.”

**Equity Implications:** Individuals with disabilities have the right to fully participate in society, yet they often face various forms of discrimination, including barriers in architecture, failure to accommodate existing facilities, and limited access to essential services, programs, and activities. This is especially true for parents and guardians of children with disabilities who struggle to find accessible childcare at higher rates than non-disabled children. Considering the disproportionately high rates of poverty among people with disabilities, this bill attempts to address equity by ensuring that children with disabilities have greater access to subsidized childcare services by allowing a childcare development program up to six months of provisional care to children with exceptional needs until a revised fire safety clearance is obtained. In print, this bill falls short of protecting children with disabilities. Equity also means ensuring all children are safe, regardless of ambulatory status.

**Policy Considerations:** This bill aims to revise fire clearance regulations to allow childcare programs a grace period of up to six months to obtain a revised fire safety clearance after accepting a nonambulatory child with exceptional needs. Failure to obtain clearance within this period may result in temporary termination of services to the child until clearance is obtained. While allowing a grace period acknowledges the practical challenges involved in obtaining revised fire clearances promptly, fundamental issues remain, including:

- Providing provisional care to children with exceptional needs while the status of an approved fire clearance is underway is based on the assumption that CCCs and FCCHs would be approved for fire clearance, indicating children with exceptional needs are in potential safety-hazard facilities and exposing these children to fire-related injuries or death.
- In cases where a facility provisionally provides care for, at most six months under this bill, a family could succumb to being denied care every six months from one facility to the next, unintentionally creating a loophole that allows children with exceptional needs to receive irregular bursts of short-term care across numerous facilities as a long-term solution. While receiving piece-mealed childcare may be better than no childcare for children with exceptional needs, *it cannot be at the expense of these children’s safety.*

Additionally, state law establishes within CDSS an organizational structure to separate licensing of child daycare facilities from other types of licensed facilities; yet, the term “nonambulatory children” does not have its own distinct definition that recognizes the unique needs and characteristics of these children. Instead, this term is encompassed under the broad term, “nonambulatory persons,” which comprises populations from the other licensed facilities, including community care facilities, residential care facilities, and residential care facilities for the elderly.

*The Author may wish to add a definition for “nonambulatory children.”*

Finally, since current regulations do not require pre-inspections of childcare facilities to ensure approved fire clearances for enrolling either 1) exclusively ambulatory children or 2) a combination of nonambulatory and ambulatory children, there are several missed opportunities that have compounding effects:

- A prospective licensee does not know whether they are capable of enrolling nonambulatory children until they actively seek to enroll these children through a revised fire clearance;
- Were a pre-inspection required, regardless of whether a facility actively seeks to enroll a nonambulatory child, a prospective licensee misses out on the opportunity to receive guidance from the fire marshal regarding the recommended modifications necessary, if any, to accommodate these children in the future;
- Depending on the types of projects recommended by the fire marshal for approval to enroll nonambulatory children, a prospective licensee can assess whether they have the capability to implement these modifications, considering their current capacity and resources, thus enabling an informed decision-making process; and,
- After evaluating their capacity to implement recommended modifications, prospective licensees can subsequently communicate to prospective families their ability to potentially enroll nonambulatory children in the future.

*The Author may wish to require pre-inspections for childcare facilities. The Author may wish to further require these pre-inspections to verify whether the facility can accept both 1) exclusively ambulatory children and 2) a combination of ambulatory and nonambulatory children, even if the facility is not actively seeking to enroll a nonambulatory for the for purposes of identifying any applicable modifications that are required to comply with the ADA.*

**Proposed Committee Amendments:** The Committee proposes amendments to address policy considerations stated above and some of the challenges with fire clearance requirements discussed earlier to do the following:

- Require the local fire-enforcing agency or the State Fire Marshal, whichever has primary fire protection jurisdiction, to conduct a pre-inspection for a prospective childcare licensee, rather than have it be optional.
- Require the pre-inspection to verify whether the childcare facility is authorized to enroll 1) exclusively ambulatory children and 2) a mix of ambulatory/nonambulatory children, even if the facility is not actively seeking to enroll nonambulatory children, for the purposes of identifying any applicable modifications that are required to be in compliance of the Americans with Disabilities Act of 1990 (42 U.S.C. § 10201 *et seq.*).
- Define “nonambulatory children” to mean children under three years of age or children over three years of age who are unable to leave a building unassisted under emergency conditions. It includes children who are unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire

danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs.

- Exempt childcare facilities from having to obtain a revised fire clearance for each nonambulatory child once approved for enrolling nonambulatory children, unless the facility exceeds current capacity or the facility makes additional modifications after already being approved for a fire clearance.

These proposed committee amendments will apply to all childcare facilities, including small family daycare homes, which as previously mentioned, are exempt from having to obtain a fire clearance when seeking to enroll a nonambulatory child.

**Double referral:** Should this bill pass out of this committee, it will be referred to the Assembly Committee on Education.

**RELATED OR PRIOR LEGISLATION:**

*SB 234 (Skinner) Chapter 244, Statutes of 2019*, revised and recast statutes regarding licensed family daycare homes pertaining to housing protections, among other things, and changes the due date for the State Fire Marshal to update building and fire standards and guidance.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Monterey County Office of Education (Co-Sponsor)  
Santa Clara County Office of Education (Co-Sponsor)  
Santa Cruz County Office of Education (Co-Sponsor)  
California County Superintendents  
First 5 Santa Clara County  
Santa Clara County School Boards Association

**Opposition**

None on file.

**Analysis Prepared by:** Bri-Ann Hernández / HUM. S. / (916) 319-2089