

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 479 (Grayson) – As Amended March 25, 2021

SUBJECT: Family daycare homes: secondary licensees

SUMMARY: Authorizes a secondary licensee for family daycare home licensee. Specifically, **this bill:**

- 1) Adds to the definition of “family daycare home” a facility that regularly provides care, protection, and supervision for 14 or fewer children in the licensee’s home if the provider is a secondary licensee.
- 2) Adds that a small daycare home or large family daycare home can also be where the licensee resides, if the family daycare provider is a secondary licensee.
- 3) Provides that a person may apply to be a secondary licensee for a licensee.
- 4) Provides that a secondary licensee shall meet all licensure requirements applicable to a licensee except that a secondary licensee shall not be required to reside in the home in which the family daycare home is operated.
- 5) Requires a secondary licensee to have one of the following:
 - a) Twelve postsecondary semester or equivalent quarter units in early childhood education or child development completed, with passing grades, at an accredited or approved college or university, and at least six months of work experience in a licensed childcare center or comparable group childcare program;
 - b) A current and valid Child Development Associate (CDA) credential with the appropriate age-level endorsement issued by the CDA National Credentialing Program of the Council for Early Childhood Professional Recognition and at least six months of on-the-job training or work experience in a licensed childcare center or comparable group childcare program; or,
 - c) One of the following child development permits issued by the California Commission on Teacher Credentialing: Child Development Associate Teacher Permit, Child Development Teacher Permit, or Child Development Master Teacher Permit.
- 6) Requires all rules and regulations related to the maintenance and operation of a family daycare home that are applicable to a licensee to be applicable to a secondary licensee. Further provides that to the extent that compliance with a rule or regulation can be satisfied by one person, either the licensee or the secondary licensee may comply.

EXISTING LAW:

- 1) Establishes the “California Child Daycare Facilities Act”, creating a separate licensing category for child daycare centers and family daycare homes within the California

Department of Social Services's (CDSS's) existing licensing structure. (Health and Safety Code Section [HSC] 1596.70 *et seq.*)

- 2) Defines a "family daycare center" to mean a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home. (HSC 1596.78(a))
- 3) Provides that a small family daycare home or large family daycare home includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family daycare home or large family daycare home is where the daycare provider resides, and includes a dwelling or a dwelling unit that is rented, leased, or owned. (HSC 1596.78(d))
- 4) Requires an applicant for licensure as a family daycare home for children to file with CDSS, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, all of the following:
 - a) A brief statement confirming that the applicant is financially secure to operate a family daycare home for children;
 - b) Evidence that the small family daycare home contains a fire extinguisher or smoke detector device, or both; and, evidence satisfactory to CDSS that there is a fire escape and disaster plan for the facility and that fire drills and disaster drills will be conducted regularly;
 - c) The fingerprints of any applicant of a family daycare home license, and any other adult;
 - d) Evidence of a current tuberculosis clearance;
 - e) Evidence of current immunity or exemption from immunity, as specified, for the applicant and any other person who provides care and supervision to the children;
 - f) Evidence satisfactory to CDSS of the ability of the applicant to comply with the licensing provisions and the regulations adopted pursuant to those provisions;
 - g) Evidence satisfactory to CDSS that the applicant and all other persons residing in the home are of reputable and responsible character; and,
 - h) Other information as required by CDSS for the proper administration and enforcement of the act. (HSC 1597.54)
- 5) Requires CDSS to charge an original application fee for the issuance of a license to operate a child daycare facility and, thereafter, an annual fee and that these fees be adjusted by facility and capacity. The application fee is \$73 and the annual fee is \$73 for a small family daycare; the application fee \$140 and the annual fee is \$140 for a large family daycare home. (HSC 1596.803)

FISCAL EFFECT: Unknown

COMMENTS:

Community care licensing and child care facilities: The Community Care Licensing Division (CCLD) within CDSS has the responsibility of licensing and monitoring facilities that fall within its jurisdiction, such as residential care facilities for the elderly, out-of-home placements for foster youth, and child care facilities, among others. CCLD is also responsible for ensuring that these facilities comply with all applicable laws and regulations as well as for overseeing any necessary corrective actions in the event of noncompliance. The licensure, maintenance, and operation of child daycare centers and family daycare homes in the State are governed by the California Child Daycare Facilities Act. This law and the attendant regulations found in the California Code of Regulations Title 22 establish, among other things, general health and safety requirements, staff-to-child ratios, and provider training requirements.

The California Child Daycare Facilities Act defines a “family daycare home” to mean a home that regularly provides care, protection, and supervision for up to 14 children in the provider’s own home for periods of less than 24 hours per day. Family child care homes are broken out into small and large family child care homes, with small family child care homes providing care for up to eight children, and large family child care homes providing care for between seven and 14 children. As of July 1, 2020, in California, there are 28,251 licensed family daycare homes with a total capacity to serve 298,357.

The importance of home-based care: Access to home-based child care can be especially important for families with lower incomes, who are more likely to work nontraditional work hours and have a need for care providers offering flexible schedules on nights and weekends. According to data from the United States Bureau of Labor Statistics, Annual Social and Economic Supplement of the Current Population Survey from 2018, about 40% of people classified as “working poor”—i.e., individuals spending at least 27 weeks in the labor force yet still earning incomes below the federal poverty level—worked in service occupations. Service sector jobs can often involve nontraditional and less predictable work schedules. Correspondingly, family child care homes are more likely to serve the needs of families with parents that work nontraditional hours. Data from the California Child Care Resource and Referral Network found that in 2019, 41% of licensed family child care homes in California offered evening, overnight, and/or weekend care, while only 2% of child care centers did the same.

Need for this bill: According to the author, “[This bill] seeks to address the declining family child care home supply and the burgeoning gap of available child care slots. Specifically, this bill will create an opportunity for an individual to apply to become a secondary licensee for a family child care home. The secondary licensee would be required to meet all licensure requirements and a new requirement to meet early childhood education requirements, aside from residing in the home where the family child care home is operated. By creating a secondary licensee, this will allow qualified child care providers to be paired with other licensees who are able to provide the necessary space. This will create greater flexibility and opportunity for displaced child care providers who meet the licensure and background requirements, but do not have the home space to operate the family child care home. Ultimately, [this bill] will improve access to quality child care and early childhood education by filling the gap in child care providers within communities and aims to rebuild California’s child care system.”

Staff comments: The overarching goal of this bill is laudable, as family daycare homes serve as a critical and vital service for families who need child care. This became especially apparent in light of the COVID-19 pandemic which recognized child care workers as essential workers to the infrastructure of our community and which relied on child care facilities to care for the children of other essential workers. Family daycare homes provide smaller child care settings than center-based child care, which gives some parents peace of mind for safety concerns in the midst of the pandemic. This bill would allow a person to apply to be a family child care secondary licensee for a family daycare home licensee and would require that a secondary licensee to meet all licensure requirements applicable to a licensee except the requirement to reside in the home in which the family child care home is operated.

While the intent to create a secondary family daycare home licensee is a worthy goal, the bill, as it is written, does not clearly explain how the creation of a secondary licensee would be implemented. It is unclear what the intended relationship between the primary licensee and the secondary licensee would be. The bill as it is written allows at least three scenarios for the relationship between the primary and secondary licensee:

- 1) The secondary licensee functions similar to an employee, assistant provider, or substitute adult within a family child care home that the primary licensee operates;
- 2) The primary licensee and the secondary licensee operate separate child care home programs within the primary licensee's residence; or,
- 3) The secondary licensee operates the child care home program in the primary licensee's residence, and the primary licensee solely provides the residence.

The relationship between the primary and secondary licensee is not clearly described, and the interpretation of the relationship may have different implementation considerations. For instance, in CCLD's Family Child Care Homes Manual of Policies and Procedures, "licensee" is defined to mean an adult licensed to operate a Family Daycare Home and who is primarily involved in providing care for the children during the hours that the home provides care. If the primary licensee only meant to provide the residence and not provide care, the licensee would be in conflict with the Manual of Policies

CCLD collects several different licensing fees from licensees to offset the General Fund expenditure and allow the division to maintain its critical functions. Included amongst the fees that CCLD collects are an application fee, an annual fee, and an orientation fee. For a small family daycare home, the application and annual fees are each \$73. For a large family daycare home, the application and annual fees are each \$140. This bill does not specify or reference a fee structure for the secondary licensee.

CCLD is also responsible for inspecting and identifying code and regulation violations. It is unclear in this bill how regulations would be enforced and how violations would be administered. The bill does not specify whether the primary licensee, secondary licensee, or both licensees would be responsible for violations and subsequent penalties nor does it specify if the primary licensee and secondary licensee would be responsible for separate and distinctive violations.

Therefore, *should this bill move forward, the author may wish to consider specifying the relationship between the primary and secondary licensee, especially as it pertains to developing regulations, licensing fees, and enforcement.*

PRIOR AND RELATED LEGISLATION:

AB 2546 (Grayson) of 2020, would have codified regulations that require a family daycare home licensee to be present in the home and ensure children are supervised at all times. Further, specified that a licensee shall not be absent from the family daycare home more than 30% of the hours the licensee is providing care for the day. AB 2546 was not heard in the Assembly Human Services Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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