

Keeping Kids Close to Home Act SB 234

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We work to **increase the availability** of family child care, particularly for Black and Brown families and families with the fewest resources, by collaborating with: parents, providers, R&Rs, local and state agencies, grass roots groups, fire departments, nonprofits, lawmakers, legal aid attorneys, etc.



Public Counsel

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Public Counsel's Community Development Project builds strong foundations for healthy, vibrant and economically stable communities through:

- Legal and capacity building services for nonprofits, small businesses and low income entrepreneurs
- Recognizing the importance of early education for children 0-5, the Early Care & Education Law Unit of our Community Development Project provides free legal assistance (through in-house and pro bono attorneys) to qualifying child care providers in LA County on a variety of issues including landlord tenant disputes, employment concerns, zoning and land use issues, licensing, drafting contracts, etc.

SB 234

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- Past - Family Child Care Home Protections
- Current – SB 234 Protections
- Future – Implementation and Enforcement



California's Protections for Family Child Care

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The California Child Day Care Facilities Act

Cal. Health & Safety Code Sections 1597.30 et seq.

Nearly 40 years ago, the state legislature declared **family child care**:

- ❑ Should be located in “normal residential surroundings” that give children a home-like environment which is good for their healthy development
- ❑ Shortage in California that is of statewide concern
- ❑ Many parents prefer child care in their neighborhood
- ❑ Growing need because of more working parents
- ❑ Licensing must be affordable, easy to regulate, and not heavily burdensome



Family Child Care Supports Healthy, Sustainable Communities

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For **children**, family child care providers

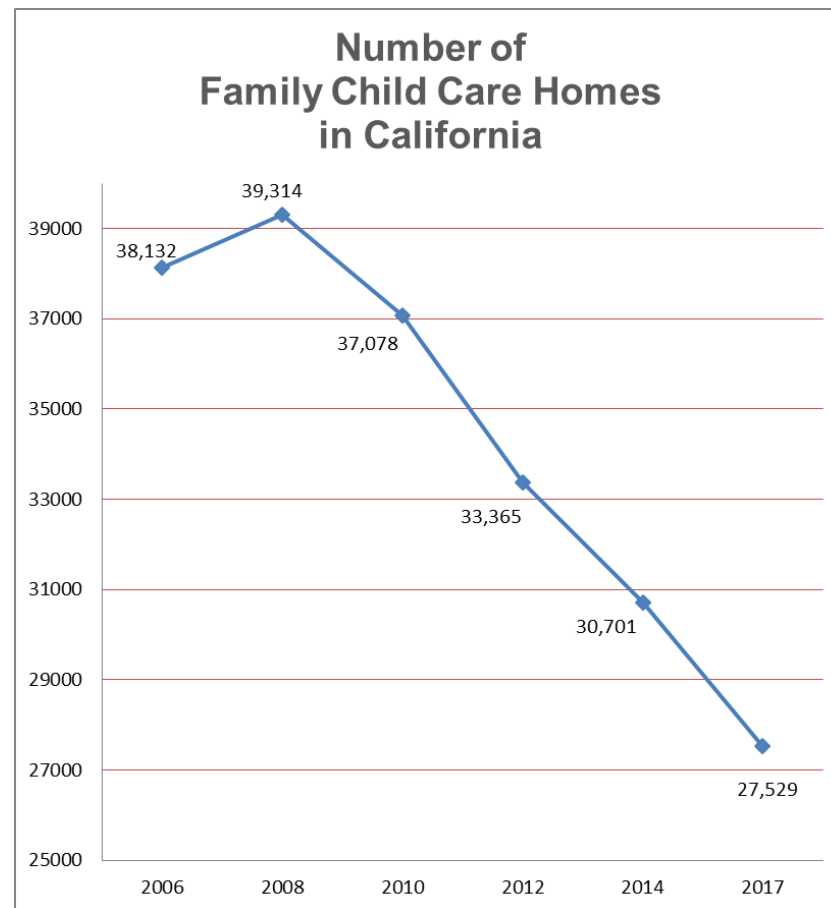
- Offer a home-like environment
- Support their social and cognitive development
- Often meet their individual, cultural & linguistic needs



Decline of Family Child Care Homes BEFORE COVID-19

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California has **lost one-third** of its Family Child Care Homes since 2008



Statewide child care shortage AFTER COVID-19

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- **5,000** family child care homes have closed since the end of 2019.
- **50,000** children without child care due to closures.
- Approximately **200** family child care homes have closed each week since the pandemic.
 - **210** closures (Sep. 15 – Sep. 22)

Problems for Family Child Care Homes

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Cities and counties required:

- Expensive zoning permits & business licenses
- Overly burdensome application processes
- Rules that apply to other businesses
- Local “child care licensing requirements”



Problems for Family Child Care Homes

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Landlords, HOAs and Property Managers unlawfully:

- Evicting
- Refusing to rent or sell,
- Raising rent,
- Charging impermissible security deposits, and
- Restricting use of family child care homes



California's Protections for Family Child Care

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The Child Day Care Facilities Act **preempts** local laws/rules

Cal. Health & Safety Code 1597.40(b)



Family child care is regulated by

- The California Department of Social Services, Community Care Licensing Division Cal. See Cal. Health & Safety Code 1596.72(d); Cal. Code of Regs., tit. 22 102351.1. *et seq.* (family child care homes), 101151 *et seq.* (child care centers)
- The Office of the State Fire Marshal Cal. Health & Safety Code 1597.455, 1597.46; Cal. Code of Regs., title 24, Cal. Fire Code 455 (Appendix Chapter 4) & Cal. Building Code 455 (the fire and building codes needs to be updated to incorporate changes in SB 234).

Keep Kids Close to Home Act: SB 234

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How did SB 234 strengthen protections for family child care providers starting Jan. 1, 2020?



The California Child Day Care Facilities Act

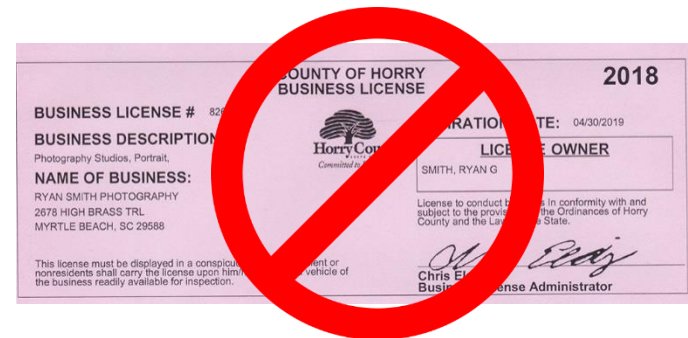
Cal. Health & Safety Code 1597.30 *et seq.*



Keeping Kids Close to Home Act: SB 234

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- Cities and counties **can no longer regulate small or large family child care homes**
- ALL family child care homes must be considered a residential use of property for the purposes of all local ordinances
- No more:
 - Zoning/Use Permits
 - Business Licenses



Cal. Health & Safety Code 1597.45(a)-(b)



Keeping Kids Close to Home Act: SB 234

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Clarifies licensed family child care homes are allowed in any type of residential home

- Single-family homes
- Apartments
- Condominiums
- Townhomes
- Duplexes
- All other multi-family buildings



SB 234 Strengthens Family Child Care Provider's Housing Protections

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Landlords, property managers, realtors, and Homeowner Associations (HOAs) CANNOT

- Refuse to rent to someone
- Raise rent or security deposit (beyond the allowable legal limit),
- Evict a tenant,
- Restrict the use of property

Because that tenant operates or plans to operate a licensed family child care home.

*Rental lease provisions that say, “No Businesses Allowed” do not apply to family child care homes



Insurance Protections for Family Child Care homes

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- Landlords cannot require liability insurance, but we recommend family child care providers obtain it. Health & Safety Code 1597.531
- Insurance companies cannot threaten to cancel a homeowner's policy because of a family child care home. Insurance Code 676, 676.1; See also Health & Safety Code 1597.41(a)-(c)
- When the property is used for residential purposes, insurance companies cannot refuse application for or cancel an insurance policy based on the source of income of the individual or group of individuals residing at the property. Insurance Code 679.74(a)

Adding Landlord to Liability Insurance

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- Family child care providers must add their landlord to their liability insurance, if:
 - They already have or are getting a liability insurance policy;
 - Their landlord or HOA asks in writing;
 - Their policy will not be cancelled if the landlord is added, and
 - Their landlord pays the higher premium amount, if there is one for adding them.

Landlord's Consent

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When renting a home, a landlord's consent is **only required** if the family child care provider cares for **one or two more children**:

- Small
 - 1-6 children w/notice
 - 7 or 8 w/ landlord's consent
- Large
 - 1-12 children w/notice
 - 13 or 14 w/landlord's consent

Keeping Kids Close to Home Act: SB 234

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Family child care providers can hold local governments and individuals accountable under the procedures and remedies of the Fair Employment and Housing Act.

Health & Safety Code 1597.41(e)



Keeping Kids Close to Home Act: SB 234

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SB 234 **does not:**

- Change zoning and building requirements that apply to **all homes**.



Keeping Kids Close to Home Act: SB 234

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SB 234 **does not**:

- Change Community Care Licensing regulations or State Fire Marshal/local fire department clearances/requirements for family child care homes



HYPO

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A small child care provider tells you that her landlord will not allow her to operate a family child care in her home.

This provider has already verbally told her landlord of her rights as a child care provider tenant, but he still refuses to allow her to operate. He states that her child care is a business and violates her lease.

How would you go about helping the provider in this situation?

KEY TAKEAWAYS

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- Family Child Care Providers can NOW increase the number of children they care for without burdensome regulation and costs
- Cities and counties no longer have any jurisdiction over family child care homes
- Family child care has stronger housing protections
- SB 234 does not change Community Care Licensing or Fire Clearances governed by the state fire and building codes.
- Share our resources with your colleagues, landlords, cities, and counties

Take Action Now

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Inform your city and county about SB 234 and help us track who is following the new law

Report for the County of: Alameda						
Directions: 1) Mark shaded area for your county/city with an "X" after you informed them of SB 234 2) Mark shaded area for your county/city with an "X" when city or county complies with SB 234				LEGEND FOR NOTES - Abbreviations to use Finance Department = F.D. Business License/Local business tax/Home occupation permit/etc. = B.L. Planning Department = P.D. Zoning permit/Conditional use permit, Administrative use permit, Minor use permit or Use permit/etc. = Permit Building Department = B.D.		
Remember: Business Licenses are obtained through the Finance Department and Zoning/Use Permits are obtained through the Planning Department						
	Finance Department		Planning Department		Your agency and your initials (optional, but very helpful)	Notes (optional) Your email address/notes/date
	Informed	In Compliance	Informed	In Compliance		
Alameda - COUNTY						Ex.: trobertson@childcarelaw.org/county F.D. needs to update forms for B.L./1.30.20
1 Alameda						
2 Albany						
3 Berkeley						
4 Dublin						
5 Emeryville						
6 Fremont						
7 Hayward						
8 Livermore						
9 Newark						
10 Oakland						
11 Piedmont						
12 Pleasanton						
13 San Leandro						
14 Union City						
15						

Questions?



Resources

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- [Know the Law about Family Child Care Homes in CA Rental Property](#)
- [Know the Law about Family Child Care Homes in CA Rental Property – For Landlords](#)
- [Know the Law about Business Licenses and Zoning Permits for Family Child Care in California](#)
- [SB 234 FAQ](#)
- [Resources](#) and [Provider](#) Pages
- [Landlord Notification form](#)
- [Landlord Consent form](#)
- [Sign Up for Child Care Law Center Policy Updates](#)
- Know the Law: Is Your City or County Compliant with CA Law for Family Child Care Homes? - **Coming Soon!**



We Can Help You

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