

AMENDED IN SENATE JUNE 19, 2002

AMENDED IN SENATE JUNE 12, 2002

AMENDED IN SENATE MAY 30, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2651

Introduced by Assembly Member Chu
(Coauthors: Assembly Members Aroner, Goldberg, Longville,
and Steinberg)
(Coauthors: Senators Kuehl and Romero)

February 22, 2002

An act to amend Sections 16001.9, 16164, and 16167 of, and to add Sections 16013, 16014, 16015, and 16016 to, the Welfare and Institutions Code, relating to social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2651, as amended, Chu. Foster youth.

Existing law provides for the placement of certain youth in foster care, and provides for child welfare services for, among other purposes, the protection and promotion of the welfare of all youth, including those in foster care.

Existing law also establishes the Office of the State Foster Care Ombudsperson within the State Department of Social Services for the purpose of providing youth placed in foster care with a means of resolving issues related to their care, placement, or services.

Existing law establishes a statewide toll-free telephone number for foster care youth to contact the Office of the State Foster Care Ombudsperson.

This bill would declare legislative intent and state policy, as specified, regarding gay, lesbian, *bisexual*, or ~~transgendered~~ *transgender* youth who are in foster care, including training requirements for foster parents, group home staff, and foster care social workers, and issues pertaining to discrimination based on, among other things, race, sexual orientation, and medical condition.

This bill would also express the intent of the Legislature ~~with respect to the duties of that~~ the State Foster Care Ombudsperson *address complaints brought by gay, lesbian, bisexual, or transgender youth regarding their care, placement, and services*, and ~~that the availability of the toll-free hotline with respect shall be available~~ to all youth in foster care, including those who are being physically, sexually, or emotionally abused. *This bill would require the State Foster Care Ombudsperson to refer certain allegations to specified entities.*

This bill would establish goals with respect to gay ~~and~~, lesbian, *bisexual, or transgender* foster parents and gay, lesbian, *bisexual, or transgendered transgender* foster youth.

This bill would also require the department to make diligent efforts to locate foster care placement resources that would allow children in state custody to practice their religious faiths.

This bill would incorporate additional changes in Section 16164 of the Welfare and Institutions Code, proposed by AB 2294, to be operative only if AB 2294 and this bill are both enacted and become effective on or before January 1, 2003, and this bill is enacted last.

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

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

- 1 SECTION 1. Section 16001.9 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 16001.9. (a) It is the policy of the state that all children in
- 4 foster care shall have the following rights:
- 5 (1) To live in a safe, healthy, and comfortable home where he
- 6 or she is treated with respect.
- 7 (2) To be free from physical, sexual, emotional, or other abuse,
- 8 or corporal punishment.



- 1 (3) To receive adequate and healthy food, adequate clothing,
2 and, for youth in group homes, an allowance.
- 3 (4) To receive medical, dental, vision, and mental health
4 services.
- 5 (5) To be free of the administration of medication or chemical
6 substances, unless authorized by a physician.
- 7 (6) To contact family members, unless prohibited by court
8 order, and social workers, attorneys, foster youth advocates and
9 supporters, Court Appointed Special Advocates (CASA), and
10 probation officers.
- 11 (7) To visit and contact brothers and sisters, unless prohibited
12 by court order.
- 13 (8) To contact the Community Care Licensing Division of the
14 State Department of Social Services or the Office of the State
15 Foster Care Ombudsperson regarding violations of rights, to speak
16 to representatives of these offices confidentially, and to be free
17 from threats or punishment for making complaints.
- 18 (9) To make and receive confidential telephone calls and send
19 and receive unopened mail, unless prohibited by court order.
- 20 (10) To attend religious services and activities of his or her
21 choice.
- 22 (11) To maintain an emancipation bank account and manage
23 personal income, consistent with the child's age and
24 developmental level, unless prohibited by the case plan.
- 25 (12) To not be locked in any room, building, or facility
26 premises, unless placed in a community treatment facility.
- 27 (13) To attend school and participate in extracurricular,
28 cultural, and personal enrichment activities, consistent with the
29 child's age and developmental level.
- 30 (14) To work and develop job skills at an age-appropriate level
31 that is consistent with state law.
- 32 (15) To have social contacts with people outside of the foster
33 care system, such as teachers, church members, mentors, and
34 friends.
- 35 (16) To attend Independent Living Program classes and
36 activities if he or she meets age requirements.
- 37 (17) To attend court hearings and speak to the judge.
- 38 (18) To have storage space for private use.
- 39 (19) To review his or her own case plan if he or she is over 12
40 years of age and to receive information about his or her



1 out-of-home placement and case plan, including being told of
2 changes to the plan.

3 (20) To be free from unreasonable searches of personal
4 belongings.

5 (21) To confidentiality of all juvenile court records consistent
6 with existing law.

7 (22) To be free from discrimination and harassment based on
8 actual or perceived race, color, religion, ancestry, ethnicity,
9 national origin, physical or mental disability, medical condition,
10 sex, including gender identity, or sexual orientation.

11 (b) Nothing in this section shall be interpreted to require a
12 foster care provider to take any action that would impair the health
13 and safety of children in out-of-home placement.

14 SEC. 1.5. Section 16013 is added to the Welfare and
15 Institutions Code, to read:

16 16013. The Legislature finds and declares that, in an effort to
17 enhance care and improve the well-being of youth in foster care,
18 providers should be ensured the following protections:

19 (a) Sexual orientation or gender identity as a basis for
20 discrimination is prohibited in the delivery of benefits and
21 services.

22 (b) Discrimination based on the sexual orientation *or gender*
23 *identity* of foster parents and other foster household members, in
24 licensing, approval, and placement decisions, is prohibited.

25 (c) Discrimination based on the HIV or AIDS status of foster
26 parents who are able to perform foster care responsibilities and of
27 other foster household members is prohibited.

28 SEC. 2. Section 16014 is added to the Welfare and Institutions
29 Code, to read:

30 16014. It is the goal of this state that foster parents, including,
31 but not limited to, gay ~~or lesbian~~, *lesbian, bisexual, or transgender*
32 adults, shall be identified who are interested in caring for gay,
33 lesbian, ~~or transgendered~~ *bisexual, or transgender* youth in foster
34 care.

35 SEC. 3. Section 16015 is added to the Welfare and Institutions
36 Code, to read:

37 16015. It is the intent of the Legislature that the training of
38 foster parents, group home staff, and foster care social workers
39 include all of the following topics:



1 (a) Policies and applicable state laws barring discrimination on
2 the basis of sexual orientation, gender identity, and HIV or AIDS
3 status.

4 (b) Sensitivity to sexual orientation, gender identity, and the
5 challenges faced by gay, lesbian, ~~or transgendered~~ *bisexual, or*
6 *transgender* youth, or youth with gender issues, and sensitivity to
7 the trauma faced by youth who have been sexually or physically
8 abused.

9 (c) Educating gay ~~or lesbian~~, *lesbian, bisexual, or transgender*
10 youth in foster care about their sexuality and sexual health,
11 including prevention of HIV or AIDS and other sexually
12 transmitted diseases.

13 (d) The department's policies with regard to gay, lesbian, ~~or~~
14 ~~transgendered~~ *bisexual, or transgender* youth in foster care.

15 SEC. 4. Section 16016 is added to the Welfare and Institutions
16 Code, to read:

17 16016. It is the goal of this state to ensure that children in
18 foster care maintain contact with their families and communities,
19 including religious communities, to the extent consistent with
20 their physical and psychological safety. To further this goal, the
21 department shall do both of the following:

22 (a) Ensure that whenever removal of a child from his or her
23 home is contemplated, the responsible social worker shall ask the
24 parent or legal guardian whether the child has a religious
25 affiliation, including an affiliation with a particular religious
26 institution. This subdivision shall only apply when, in the social
27 worker's judgment, the child is old enough to consider himself or
28 herself affiliated with a particular religion.

29 (b) Make diligent efforts, as appropriate within the context of
30 many priorities in making placements, to locate placement
31 resources that will allow children in state custody to practice their
32 religious faiths, including those religious practices that require
33 attention to aspects of daily living, including diet, dress, social
34 interaction, and special holiday observations, in order to protect
35 the right of these children to the free exercise of religion.

36 SEC. 5. Section 16164 of the Welfare and Institutions Code
37 is amended to read:

38 16164. (a) The Office of the State Foster Care
39 Ombudsperson shall do all of the following:



1 (1) Disseminate information on the rights of children and youth
2 in foster care and the services provided by the office. The rights of
3 children and youths in foster care are listed in Section 16001.9.
4 The information shall include notification that conversations with
5 the office may not be confidential.

6 (2) Investigate and attempt to resolve complaints made by or on
7 behalf of children placed in foster care, related to their care,
8 placement, or services. It is the intent of the Legislature that the
9 Office of the State Foster Care Ombudsperson shall address
10 complaints brought by gay, lesbian, ~~or transgendered~~ *bisexual, or*
11 *transgender* foster youth regarding their care, placement, and
12 services. The Ombudsperson shall refer allegations of violations
13 of licensing regulations to the Community Care Licensing
14 Division, and shall refer allegations of civil rights violations to the
15 Office of Civil Rights.

16 (3) Decide, in its discretion, whether to investigate a complaint,
17 or refer complaints to another agency for investigation.

18 (4) Upon rendering a decision to investigate a complaint from
19 a complainant, notify the complainant of the intention to
20 investigate. If the office declines to investigate a complaint or
21 continue an investigation, the office shall notify the complainant
22 of the reason for the action of the office.

23 (5) Update the complainant on the progress of the investigation
24 and notify the complainant of the final outcome.

25 (6) Document the number, source, origin, location, and nature
26 of complaints.

27 (7) Compile and make available to the Legislature all data
28 collected over the course of the year, including, but not limited to,
29 the number of contacts to the toll-free telephone number, the
30 number of complaints made, the number of investigations
31 performed by the office, the number of referrals made, and the
32 number of unresolved complaints.

33 (8) Have access to any record of a state or local agency that is
34 necessary to carry out his or her responsibilities, and may meet or
35 communicate with any foster child in his or her placement or
36 elsewhere.

37 (b) The office may establish, in consultation with a committee
38 of interested individuals, regional or local foster care
39 ombudsperson offices for the purposes of expediting



1 investigations and resolving complaints, subject to appropriations
2 in the annual Budget Act.

3 (c) (1) The office, in consultation with the California Welfare
4 Directors Association, Chief Probation Officers of California,
5 foster youth advocate and support groups, groups representing
6 children, families, foster parents, children’s facilities, and other
7 interested parties, shall develop, no later than July 1, 2002,
8 standardized information explaining the rights specified in
9 Section 16001.9. The information shall be developed in an
10 age-appropriate manner, and shall reflect any relevant licensing
11 requirements with respect to foster care providers’ responsibilities
12 to adequately supervise children in care.

13 (2) The office, counties, foster care providers, and others may
14 use the information developed in paragraph (1) in carrying out
15 their responsibilities to inform foster children and youth of their
16 rights pursuant to Section 1530.91 of the Health and Safety Code,
17 Sections 27 and 16501.1, and this section.

18 *SEC. 5.5. Section 16164 of the Welfare and Institutions Code*
19 *is amended to read:*

20 16164. (a) The Office of the State Foster Care
21 Ombudsperson shall do all of the following:

22 (1) Disseminate information on the rights of children and youth
23 in foster care and the services provided by the office. The rights of
24 children and youths in foster care are listed in Section 16001.9.
25 The information shall include notification that conversations with
26 the office may not be confidential.

27 (2) Investigate and attempt to resolve complaints made by or on
28 behalf of children placed in foster care, related to their care,
29 placement, or services. *It is the intent of the Legislature that the*
30 *Office of the State Foster Care Ombudsperson shall address*
31 *complaints brought by gay, lesbian, bisexual, or transgender youth*
32 *regarding their care, placement, and services. The Ombudsperson*
33 *shall refer allegations of violations of licensing regulations to the*
34 *Community Care Licensing Division, and shall refer allegations of*
35 *civil rights violations to the Office of Civil Rights.*

36 (3) Decide, in its discretion, whether to investigate a complaint,
37 or refer complaints to another agency for investigation.

38 (4) Upon rendering a decision to investigate a complaint from
39 a complainant, notify the complainant of the intention to
40 investigate. If the office declines to investigate a complaint or



1 continue an investigation, the office shall notify the complainant
2 of the reason for the action of the office.

3 (5) Update the complainant on the progress of the investigation
4 and notify the complainant of the final outcome.

5 (6) Document the number, source, origin, location, and nature
6 of complaints.

7 (7) Compile and make available to the Legislature all data
8 collected over the course of the year including, but not limited to,
9 the number of contacts to the toll-free telephone number, the
10 number of complaints made, the number of investigations
11 performed by the office, the number of referrals made, and the
12 number of unresolved complaints.

13 (8) Have access to any record of a state or local agency that is
14 necessary to carry out his or her responsibilities, and may meet or
15 communicate with any foster child in his or her placement or
16 elsewhere.

17 (9) *Provide a report directly to the appropriate fiscal and policy*
18 *committees of the Legislature at least every two years regarding*
19 *reports and complaints received by the office, and issues that arose*
20 *in the course of investigating complaints. The report shall include,*
21 *but not be limited to, a summary of trends and issues regarding*
22 *complaints as well as recommendations for addressing issues*
23 *identified through complaints or that have become apparent in the*
24 *course of investigations conducted by the office.*

25 (b) The office may establish, in consultation with a committee
26 of interested individuals, regional or local foster care
27 ombudsperson offices for the purposes of expediting
28 investigations and resolving complaints, subject to appropriations
29 in the annual Budget Act.

30 (c) (1) The office, in consultation with the California Welfare
31 Directors Association, Chief Probation Officers of California,
32 foster youth advocate and support groups, groups representing
33 children, families, foster parents, children's facilities, and other
34 interested parties, shall develop, no later than July 1, 2002,
35 standardized information explaining the rights specified in
36 Section 16001.9. The information shall be developed in an
37 age-appropriate manner, and shall reflect any relevant licensing
38 requirements with respect to foster care providers' responsibilities
39 to adequately supervise children in care.



1 (2) The office, counties, foster care providers, and others may
2 use the information developed in paragraph (1) in carrying out
3 their responsibilities to inform foster children and youth of their
4 rights pursuant to Section 1530.91 of the Health and Safety Code,
5 Sections 27 and 16501.1, and this section.

6 SEC. 6. Section 16167 of the Welfare and Institutions Code
7 is amended to read:

8 16167. (a) A toll-free telephone number shall be established
9 for the office.

10 (b) Social workers shall provide foster children with the
11 toll-free telephone number for the office and verbal or written
12 information regarding the existence and purpose of the office.

13 (c) It is the intent of the Legislature that the toll-free telephone
14 number be made available to all youth in foster care to use for any
15 reason, including, but not limited to, ~~if~~ *that* a youth in foster care
16 is being physically, sexually, or emotionally abused, regardless of
17 whether the abuse is specifically related to his or her sexual
18 orientation or gender identity.

19 SEC. 7. *Section 5.5 of this bill incorporates amendments to*
20 *Section 16164 of the Welfare and Institutions Code proposed by*
21 *both this bill and AB 2294. It shall only become operative if (1)*
22 *both bills are enacted and become effective on or before January*
23 *1, 2003, (2) each bill amends Section 16164 of the Welfare and*
24 *Institutions Code, and (3) this bill is enacted after AB 2294, in*
25 *which case Section 5 of this bill shall not become operative.*

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