

AMENDED IN SENATE AUGUST 8, 2002

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, Koretz,**  
**Longville, and Steinberg)**  
(Coauthors: Senators Kuehl and Romero)

February 22, 2002

---

---

An act to amend Sections 903.8, 16001.9, 16164, and 16167 of, and to add ~~Sections 16013, 16014, 16015, and 16016~~ *Section 16013* 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 transgender~~ *the rights of 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 that the State Foster Care Ombudsperson address complaints brought by *all foster youth, including gay, lesbian, bisexual, or transgender foster youth*, regarding their care, placement, and services, and that the toll-free hotline 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, lesbian, bisexual, or transgender foster parents and gay, lesbian, bisexual, or 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.~~

~~Existing law requires the department to develop and implement an enhanced statewide basic foster parent training program, and permits the training program to include various topics.~~

~~The bill would permit the foster parent training program to include education on teenage sexual health and other methods of protection against sexually transmitted diseases and AIDS. It would also permit the training program to include topics related to gay and lesbian foster youth.~~

~~Existing law requires the department to evaluate current foster parent recruitment strategies and facilitate the expansion of recruitment activities, especially targeting minority families for the promotion of the placement of minority youth with trained and culturally competent families of the same ethnicity and cultural background.~~

~~This bill would also require that the department facilitate the expansion of recruitment activities targeting gay, lesbian, bisexual, or~~



*transgender foster parents for the promotion of the placement of gay, lesbian, bisexual, or transgender foster youth with trained and culturally competent families of the same cultural background.*

*This bill would provide that this program shall be implemented only to the extent that funds for this purpose are appropriated by the Legislature in the annual Budget Act or other statute.*

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 903.8 of the Welfare and Institutions*  
2 *Code is amended to read:*

3 903.8. (a) Beginning January 1, 1994, the State Department  
4 of Social Services shall develop and implement an enhanced  
5 statewide basic foster parent training program. ~~It is the intent of the~~  
6 ~~Legislature to fund this program by allocating unexpended child~~  
7 ~~welfare services funds from the 1992-93 fiscal year to support a~~  
8 ~~two and one-half year training curricula development.~~

9 (b) ~~During this two and one-half year period, the State~~  
10 ~~Department of Social Services shall do all of the following, in~~  
11 ~~cooperation with foster parents and representatives from county~~  
12 ~~placement agencies and other foster care providers—The~~  
13 ~~department, in cooperation with foster parents and representatives~~  
14 ~~from county placement agencies and other foster care providers,~~  
15 ~~shall do all of the following:~~

16 (1) ~~Complete a comprehensive survey of existing foster parent~~  
17 ~~training curricula and resources, evaluate the existing foster parent~~  
18 ~~training delivery system and explore alternative delivery models,~~  
19 ~~complete a needs assessment of foster parents, and develop and~~  
20 ~~implement a statewide core curriculum.~~

21 (2) ~~Develop and implement curricula for; teenage pregnancy~~  
22 ~~prevention and other special needs topics, as identified in the needs~~  
23 ~~assessment, to supplement the core curriculum. The teenage~~  
24 ~~pregnancy prevention topics shall be based upon public health~~  
25 ~~fact-based materials and programs. Curricula for teenage~~



1 pregnancy prevention shall emphasize that abstinence from sexual  
2 intercourse is the only protection that is 100 percent effective  
3 against unwanted teenage pregnancy, sexually transmitted  
4 diseases, and acquired immune deficiency syndrome (AIDS)  
5 when transmitted sexually, and that all other methods of  
6 contraception carry a risk of failure in preventing unwanted  
7 teenage pregnancy. *Special needs topics may include education on*  
8 *teenage sexual health and other methods of protection against*  
9 *sexually transmitted diseases and AIDS and the risks of failure in*  
10 *preventing contraction of the disease.* The curricula shall:

11 (A) Include statistics based on the latest medical information  
12 citing the failure and success rates of condoms and other  
13 contraceptives in preventing pregnancy.

14 (B) Stress that sexually transmitted diseases are serious  
15 possible hazards of sexual intercourse, and shall include statistics  
16 based on the latest medical information citing the failure and  
17 success rates of condoms in preventing AIDS and other sexually  
18 transmitted diseases.

19 (C) Include a discussion of the possible emotional and  
20 psychological consequences of preadolescent and adolescent  
21 sexual intercourse outside of marriage and the consequences of  
22 unwanted adolescent pregnancy.

23 ~~(3)~~

24 (D) *The training of anyone in the role of a foster parent may*  
25 *also include the following topics:*

26 (i) *Sensitivity to sexual orientation, gender identity, and the*  
27 *challenges faced by gay, lesbian, bisexual, or transgender youth,*  
28 *or youth with gender issues.*

29 (ii) *Sensitivity to the trauma faced by youth who have been*  
30 *sexually or physically abused.*

31 (2) Evaluate the current foster parent training funding formula  
32 and explore funding alternatives to ensure that a permanent and  
33 adequate funding source is available.

34 ~~(4)~~

35 (3) Evaluate current recruitment strategies and facilitate the  
36 expansion of recruitment activities, especially targeting ~~minority~~  
37 *both of the following:*

38 (A) *Minority* families for the promotion of the placement of  
39 minority youth with trained and culturally competent families of  
40 the same ethnicity and cultural background.



1 (B) *Gay, lesbian, bisexual, or transgender foster parents for the*  
2 *promotion of the placement of gay, lesbian, bisexual, or*  
3 *transgender foster youth with trained and culturally competent*  
4 *families of the same cultural background.*

5 ~~(5)~~

6 (4) In its foster parent recruitment and training effort, place  
7 special emphasis on the recruitment of prospective foster parents  
8 willing to accept sibling placements and the training of foster  
9 parents to ensure they are able and ready to care for a sibling group.

10 (c) It is not the intent of the Legislature and nothing in this  
11 section shall be construed as requiring foster parents to participate  
12 in this training program in whole or in part.

13 (d) *This section shall be implemented only to the extent that*  
14 *funds for this purpose are appropriated by the Legislature in the*  
15 *annual Budget Act or other statute.*

16 SEC. 2. Section 16001.9 of the Welfare and Institutions Code  
17 is amended to read:

18 16001.9. (a) It is the policy of the state that all children in  
19 foster care shall have the following rights:

20 (1) To live in a safe, healthy, and comfortable home where he  
21 or she is treated with respect.

22 (2) To be free from physical, sexual, emotional, or other abuse,  
23 or corporal punishment.

24 (3) To receive adequate and healthy food, adequate clothing,  
25 and, for youth in group homes, an allowance.

26 (4) To receive medical, dental, vision, and mental health  
27 services.

28 (5) To be free of the administration of medication or chemical  
29 substances, unless authorized by a physician.

30 (6) To contact family members, unless prohibited by court  
31 order, and social workers, attorneys, foster youth advocates and  
32 supporters, Court Appointed Special Advocates (CASA), and  
33 probation officers.

34 (7) To visit and contact brothers and sisters, unless prohibited  
35 by court order.

36 (8) To contact the Community Care Licensing Division of the  
37 State Department of Social Services or the Office of the State  
38 Foster Care Ombudsperson regarding violations of rights, to speak  
39 to representatives of these offices confidentially, and to be free  
40 from threats or punishment for making complaints.



- 1 (9) To make and receive confidential telephone calls and send
- 2 and receive unopened mail, unless prohibited by court order.
- 3 (10) To attend religious services and activities of his or her
- 4 choice.
- 5 (11) To maintain an emancipation bank account and manage
- 6 personal income, consistent with the child’s age and
- 7 developmental level, unless prohibited by the case plan.
- 8 (12) To not be locked in any room, building, or facility
- 9 premises, unless placed in a community treatment facility.
- 10 (13) To attend school and participate in extracurricular,
- 11 cultural, and personal enrichment activities, consistent with the
- 12 child’s age and developmental level.
- 13 (14) To work and develop job skills at an age-appropriate level
- 14 that is consistent with state law.
- 15 (15) To have social contacts with people outside of the foster
- 16 care system, such as teachers, church members, mentors, and
- 17 friends.
- 18 (16) To attend Independent Living Program classes and
- 19 activities if he or she meets age requirements.
- 20 (17) To attend court hearings and speak to the judge.
- 21 (18) To have storage space for private use.
- 22 (19) To review his or her own case plan if he or she is over 12
- 23 years of age and to receive information about his or her
- 24 out-of-home placement and case plan, including being told of
- 25 changes to the plan.
- 26 (20) To be free from unreasonable searches of personal
- 27 belongings.
- 28 (21) To confidentiality of all juvenile court records consistent
- 29 with existing law.
- 30 (22) To be free from discrimination and harassment based on
- 31 actual or perceived race, color, religion, ancestry, ethnicity,
- 32 national origin, physical or mental disability, medical condition,
- 33 sex, including gender identity, or sexual orientation.
- 34 (b) Nothing in this section shall be interpreted to require a
- 35 foster care provider to take any action that would impair the health
- 36 and safety of children in out-of-home placement.
- 37 ~~SEC. 1.5.—~~
- 38 SEC. 3. Section 16013 is added to the Welfare and Institutions
- 39 Code, to read:



1 16013. The Legislature finds and declares that, in an effort to  
2 enhance care and improve the well-being of youth in foster care,  
3 providers should be ensured the following protections:

4 ~~(a) Sexual orientation or gender identity as a basis for~~  
5 *(a) Race, color, national origin, political affiliation, religion,*  
6 *marital status, gender, age, disability, sexual orientation, or*  
7 *gender identity as a basis for* discrimination is prohibited in the  
8 delivery of benefits and services.

9 *(b) Discrimination against any person, including*  
10 *discrimination* based on the sexual orientation or gender identity  
11 of foster parents and other foster household members, in licensing,  
12 approval, and placement decisions, is prohibited.

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

16 ~~SEC. 2. Section 16014 is added to the Welfare and Institutions~~  
17 ~~Code, to read:~~

18 ~~16014. It is the goal of this state that foster parents, including,~~  
19 ~~but not limited to, gay, lesbian, bisexual, or transgender adults,~~  
20 ~~shall be identified who are interested in caring for gay, lesbian,~~  
21 ~~bisexual, or transgender youth in foster care.~~

22 ~~SEC. 3. Section 16015 is added to the Welfare and Institutions~~  
23 ~~Code, to read:~~

24 ~~16015. It is the intent of the Legislature that the training of~~  
25 ~~foster parents, group home staff, and foster care social workers~~  
26 ~~include all of the following topics:~~

27 ~~(a) Policies and applicable state laws barring discrimination on~~  
28 ~~the basis of sexual orientation, gender identity, and HIV or AIDS~~  
29 ~~status.~~

30 ~~(b) Sensitivity to sexual orientation, gender identity, and the~~  
31 ~~challenges faced by gay, lesbian, bisexual, or transgender youth,~~  
32 ~~or youth with gender issues, and sensitivity to the trauma faced by~~  
33 ~~youth who have been sexually or physically abused.~~

34 ~~(c) Educating gay, lesbian, bisexual, or transgender youth in~~  
35 ~~foster care about their sexuality and sexual health, including~~  
36 ~~prevention of HIV or AIDS and other sexually transmitted~~  
37 ~~diseases.~~

38 ~~(d) The department's policies with regard to gay, lesbian,~~  
39 ~~bisexual, or transgender youth in foster care.~~



1 ~~SEC. 4.—~~Section 16016 is added to the Welfare and Institutions  
2 Code, to read:

3 16016.—It is the goal of this state to ensure that children in  
4 foster care maintain contact with their families and communities,  
5 including religious communities, to the extent consistent with  
6 their physical and psychological safety. To further this goal, the  
7 department shall do both of the following:

8 (a) ~~Ensure that whenever removal of a child from his or her~~  
9 ~~home is contemplated, the responsible social worker shall ask the~~  
10 ~~parent or legal guardian whether the child has a religious~~  
11 ~~affiliation, including an affiliation with a particular religious~~  
12 ~~institution. This subdivision shall only apply when, in the social~~  
13 ~~worker's judgment, the child is old enough to consider himself or~~  
14 ~~herself affiliated with a particular religion.~~

15 (b) ~~Make diligent efforts, as appropriate within the context of~~  
16 ~~many priorities in making placements, to locate placement~~  
17 ~~resources that will allow children in state custody to practice their~~  
18 ~~religious faiths, including those religious practices that require~~  
19 ~~attention to aspects of daily living, including diet, dress, social~~  
20 ~~interaction, and special holiday observations, in order to protect~~  
21 ~~the right of these children to the free exercise of religion.~~

22 ~~SEC. 5.—~~

23 ~~SEC. 4.~~ Section 16164 of the Welfare and Institutions Code is  
24 amended to read:

25 16164. (a) The Office of the State Foster Care  
26 Ombudsperson shall do all of the following:

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

32 (2) Investigate and attempt to resolve complaints made by or on  
33 behalf of children placed in foster care, related to their care,  
34 placement, or services. It is the intent of the Legislature that the  
35 Office of the State Foster Care Ombudsperson shall address  
36 complaints brought by *all foster youth, including gay, lesbian,*  
37 *bisexual, or transgender foster youth,* regarding their care,  
38 placement, and services. ~~The Ombudsperson~~ *ombudsperson* shall  
39 refer allegations of violations of licensing regulations to the



1 Community Care Licensing Division, and shall refer allegations  
2 of civil rights violations to the Office of Civil Rights.

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

5 (4) Upon rendering a decision to investigate a complaint from  
6 a complainant, notify the complainant of the intention to  
7 investigate. If the office declines to investigate a complaint or  
8 continue an investigation, the office shall notify the complainant  
9 of the reason for the action of the office.

10 (5) Update the complainant on the progress of the investigation  
11 and notify the complainant of the final outcome.

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

14 (7) Compile and make available to the Legislature all data  
15 collected over the course of the year, including, but not limited to,  
16 the number of contacts to the toll-free telephone number, the  
17 number of complaints made, the number of investigations  
18 performed by the office, the number of referrals made, and the  
19 number of unresolved complaints.

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

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

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

39 (2) The office, counties, foster care providers, and others may  
40 use the information developed in paragraph (1) in carrying out



1 their responsibilities to inform foster children and youth of their  
2 rights pursuant to Section 1530.91 of the Health and Safety Code,  
3 Sections 27 and 16501.1, and this section.

4 ~~SEC. 5.5.—~~

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

7 16164. (a) The Office of the State Foster Care  
8 Ombudsperson shall do all of the following:

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

14 (2) Investigate and attempt to resolve complaints made by or on  
15 behalf of children placed in foster care, related to their care,  
16 placement, or services. It is the intent of the Legislature that the  
17 Office of the State Foster Care Ombudsperson shall address  
18 complaints brought by *all foster youth, including gay, lesbian,*  
19 *bisexual, or transgender youth-foster youth,* regarding their care,  
20 placement, and services. The ~~Ombudsperson~~ *ombudsperson* shall  
21 refer allegations of violations of licensing regulations to the  
22 Community Care Licensing Division, and shall refer allegations  
23 of civil rights violations to the Office of Civil Rights.

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

26 (4) Upon rendering a decision to investigate a complaint from  
27 a complainant, notify the complainant of the intention to  
28 investigate. If the office declines to investigate a complaint or  
29 continue an investigation, the office shall notify the complainant  
30 of the reason for the action of the office.

31 (5) Update the complainant on the progress of the investigation  
32 and notify the complainant of the final outcome.

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

35 (7) Compile and make available to the Legislature all data  
36 collected over the course of the year including, but not limited to,  
37 the number of contacts to the toll-free telephone number, the  
38 number of complaints made, the number of investigations  
39 performed by the office, the number of referrals made, and the  
40 number of unresolved complaints.



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

5 (9) Provide a report directly to the appropriate fiscal and policy  
6 committees of the Legislature at least every two years regarding  
7 reports and complaints received by the office, and issues that arose  
8 in the course of investigating complaints. The report shall include,  
9 but not be limited to, a summary of trends and issues regarding  
10 complaints as well as recommendations for addressing issues  
11 identified through complaints or that have become apparent in the  
12 course of investigations conducted by the office.

13 (b) The office may establish, in consultation with a committee  
14 of interested individuals, regional or local foster care  
15 ombudsperson offices for the purposes of expediting  
16 investigations and resolving complaints, subject to appropriations  
17 in the annual Budget Act.

18 (c) (1) The office, in consultation with the California Welfare  
19 Directors Association, Chief Probation Officers of California,  
20 foster youth advocate and support groups, groups representing  
21 children, families, foster parents, children's facilities, and other  
22 interested parties, shall develop, no later than July 1, 2002,  
23 standardized information explaining the rights specified in  
24 Section 16001.9. The information shall be developed in an  
25 age-appropriate manner, and shall reflect any relevant licensing  
26 requirements with respect to foster care providers' responsibilities  
27 to adequately supervise children in care.

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

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

35 16167. (a) A toll-free telephone number shall be established  
36 for the office.

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



1 (c) It is the intent of the Legislature that the toll-free telephone  
2 number be made available to all youth in foster care to use for any  
3 reason, including, but not limited to, that a youth in foster care is  
4 being physically, sexually, or emotionally abused, regardless of  
5 whether the abuse is specifically related to his or her sexual  
6 orientation or gender identity.  
7 SEC. 7. ~~Section 5.5~~ *Section 5* of this bill incorporates  
8 amendments to Section 16164 of the Welfare and Institutions  
9 Code proposed by both this bill and AB 2294. It shall only become  
10 operative if (1) both bills are enacted and become effective on or  
11 before January 1, 2003, (2) each bill amends Section 16164 of the  
12 Welfare and Institutions Code, and (3) this bill is enacted after AB  
13 2294, in which case ~~Section 5~~ *Section 4* of this bill shall not  
14 become operative.

