

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE MAY 27, 2010

**SENATE BILL**

**No. 1214**

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**Introduced by Senator Wolk**

February 18, 2010

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An act to amend Section 1526.8 of, to amend and add Section 1516 of, and to amend and repeal Section 1596.972 of, the Health and Safety Code, and to amend Sections 11400.1, 11402, and 11462.7 of, the Welfare and Institutions Code, relating to crisis nurseries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1214, as amended, Wolk. Crisis nurseries.

Existing law provides for the licensure and regulation by the State Department of Social Services of community care facilities, including facilities that provide care for children. Violation of the provisions relating to community care facilities is a misdemeanor.

Existing law includes a crisis nursery, as defined, within the provisions regulating a community care facility. Existing law removes crisis nurseries from these provisions on July 1, 2011.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which, pursuant to a combination of federal, state, and county funds, aid on behalf of eligible children is paid to foster care providers.

Existing law includes a crisis nursery among the facilities eligible to receive reimbursement under the above program when a child is placed in such a facility. Existing law requires the department, to the extent that federal financial participation is available, to set a foster care rate for crisis nurseries. Existing law removes crisis nurseries from these provisions on July 1, 2011.

This bill ~~would~~, as of July 1, 2012, *would* change the definition of crisis nursery for this purpose to include only facilities that accept voluntary placements, as defined, and not placements by county child welfare services.

This bill would delete the July 1, 2011, date from the provisions described above that relate to volunteers in crisis nurseries and the provisions specifying the exemptions from the crisis nursery provisions, thus extending their duration. The bill would extend the repeal date on other provisions relating to crisis nurseries until July 1, 2012, including the provisions authorizing children placed in crisis nurseries to receive AFDC-FC reimbursement. By extending inclusion of a crisis nursery in the definition of a community care facility, the bill would impose a state-mandated local program, by extending the expansion of a crime.

Existing law continuously appropriates moneys from the General Fund to pay for a share of the cost of AFDC-FC payments.

This bill would, instead, provide that the continuous appropriation would not be made for purposes of implementing the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1516 of the Health and Safety Code is  
2 amended to read:  
3 1516. (a) For purposes of this chapter, “crisis nursery” means  
4 a facility licensed by the department pursuant to subdivision (j) to  
5 provide short-term, 24-hour nonmedical residential care and  
6 supervision for children under six years of age, who are either  
7 voluntarily placed for temporary care by a parent or legal guardian  
8 due to a family crisis or a stressful situation, for no more than 30  
9 days or, except as provided in subdivision (e), who are temporarily  
10 placed by a county child welfare service agency for no more than  
11 14 days.

1 (b) Crisis nurseries shall be organized and operated on a  
2 nonprofit basis by private nonprofit corporations or nonprofit  
3 public benefit corporations.

4 (c) “Voluntary placement,” for purposes of this section, means  
5 a child, who is not receiving Aid to Families with Dependent  
6 Children-Foster Care, placed by a parent or legal guardian who  
7 retains physical custody of, and remains responsible for, the care  
8 of his or her children who are placed for temporary emergency  
9 care, as described in subdivision (a).

10 (d) A crisis nursery may also provide temporary emergency  
11 care to children under six years of age who have been taken into  
12 the protective custody of, or are placed directly by, the county  
13 child welfare services system that has assumed responsibility for  
14 the care of the children.

15 (e) County placements, as described in subdivision (d), shall be  
16 limited to no more than one-third of a crisis nursery’s licensed  
17 capacity. The length of stay for a county-placed child shall not  
18 exceed 14 days unless the State Department of Social Services  
19 issues an exception.

20 (f) (1) Except as provided in paragraph (2), the maximum  
21 licensed capacity for crisis nursery programs shall be 14.

22 (2) Any facility licensed on or before January 1, 2004, as a  
23 group home for children under the age of six years with a licensed  
24 capacity greater than 14, but less than 21, that provides crisis  
25 nursery services shall be allowed to retain its capacity if issued a  
26 crisis nursery license until the time there is a change in the  
27 licensee’s program, location, or client population.

28 (g) (1) Each crisis nursery shall submit, in a format specified  
29 by the department, a monthly report indicating the total number  
30 of children placed in the program, designating whether each child  
31 is voluntarily placed by the parents or legal guardians or placed  
32 directly by county child welfare services and the length of stay  
33 and age for each child.

34 (2) Each crisis nursery that accepts children placed directly by  
35 a county child welfare services agency also shall annually provide  
36 a summary report to the department within 60 days of the  
37 subsequent calendar year. This report shall indicate the total  
38 number of children placed directly by a county child welfare  
39 services agency, the length of stay and age for each child, the  
40 average length of stay for all of the children placed directly by the

1 county, and the reasons given by the county for the use of the crisis  
2 nursery for these children.

3 (3) When placing a child in a crisis nursery, a county child  
4 welfare agency shall inform the crisis nursery of the reason for the  
5 selection of the crisis nursery as the placement choice.

6 (h) Notwithstanding Section 1596.80, a crisis nursery may  
7 provide child day care services for children under the age of six  
8 years at the same site as the crisis nursery. A child may not receive  
9 child day care services at a crisis nursery for more than 30 calendar  
10 days in a six-month period unless the department issues an  
11 exception. A child who is receiving child day care services shall  
12 be counted in the licensed capacity. A child who is receiving child  
13 day care services, and who is a county placement, as described in  
14 subdivision (d), shall be counted in the limitation on county  
15 placements specified in subdivision (e).

16 (i) Exceptions to group home licensing regulations pursuant to  
17 subdivision (c) of Section 84200 of Title 22 of the California Code  
18 of Regulations, in effect on August 1, 2004, for county-operated  
19 or county-contracted emergency shelter care facilities that care for  
20 children under the age of six years for no more than 30 days, shall  
21 be contained in regulations for crisis nurseries.

22 (j) The department may issue a license pursuant to this section  
23 only to a facility that meets one of the following conditions:

24 (1) The facility is operating, or has an application on file with  
25 the department to operate as of September 1, 2004, as a group  
26 home for children under six years of age in any of the following  
27 counties:

28 (A) Contra Costa.

29 (B) Nevada.

30 (C) Placer.

31 (D) Sacramento.

32 (E) San Joaquin.

33 (F) Stanislaus.

34 (G) Yolo.

35 (2) The facility, pursuant to standards developed by the  
36 department by regulation, meets an urgent, significant, and unmet  
37 need for temporary respite care of children under the age of six  
38 years.

39 (3) The facility offers temporary emergency shelter and services  
40 only to children under the age of six years who are voluntarily

1 placed by a parent or guardian, as set forth in subdivision (c), and  
2 the facility does not accept county placements, as set forth in  
3 subdivision (d).

4 (k) This section shall remain in effect only until July 1, 2012,  
5 and as of that date is repealed, unless a later enacted statute, that  
6 is enacted before July 1, 2012, deletes or extends that date.

7 SEC. 2. Section 1516 is added to the Health and Safety Code,  
8 to read:

9 1516. (a) For purposes of this chapter, “crisis nursery” means  
10 a facility licensed by the department to provide short-term, 24-hour  
11 nonmedical residential care and supervision for children under six  
12 years of age, who are voluntarily ~~placements, as defined in~~ *placed*  
13 *by a parent or guardian pursuant to* subdivision (c), for temporary  
14 care due to a family crisis or stressful situation for no more than  
15 30 days.

16 (b) A crisis nursery shall be organized and operated on a  
17 nonprofit basis by either a private nonprofit corporation or a  
18 nonprofit public benefit corporation.

19 (c) “Voluntary placement,” for purposes of this section, means  
20 a child, who is placed for temporary care in a crisis nursery  
21 program by a parent or legal guardian who retains physical custody  
22 of, and remains responsible for, the care of his or her ~~child or by~~  
23 ~~a relative or by another adult who is responsible for the child’s~~  
24 ~~day-to-day care and supervision. Voluntary placement does not~~  
25 ~~include a child who is placed in a crisis nursery program directly~~  
26 ~~by a county child welfare services agency. child. Voluntary~~  
27 *placement does not include a child who has been removed from*  
28 *the care and custody of his or her parent or legal guardian and*  
29 *placed in foster care by a child welfare services agency.*

30 (d) (1) Except as provided in paragraph (2), the maximum  
31 licensed capacity for a crisis nursery program shall be 14 *children*.

32 (2) A facility licensed on or before January 1, 2004, as a group  
33 home for children under the age of six years with a licensed  
34 capacity greater than 14 *children*, but less than 21 *children*, that  
35 provides crisis nursery services shall be allowed to retain its  
36 capacity if issued a crisis nursery license until there is a change in  
37 the licensee’s program, location, or client population.

38 (e) Each crisis nursery shall collect and maintain information,  
39 in a format specified by the department, indicating the total number  
40 of children placed in the program, the length of stay for each child,

1 *the reasons given for the use of the crisis nursery*, and the age of  
2 each child. This information shall be made available to the  
3 department upon request.

4 (f) Notwithstanding Section 1596.80, a crisis nursery may  
5 provide child day care services for children under the age of six  
6 years at the same site as the crisis nursery. A child may not receive  
7 child day care services at a crisis nursery for more than 30 calendar  
8 days in a six-month period unless the department issues an  
9 exception. A child who is receiving child day care services shall  
10 be counted in the licensed capacity.

11 (g) Exceptions to group home licensing regulations pursuant to  
12 subdivision (c) of Section 84200 of Title 22 of the California Code  
13 of Regulations, in effect on August 1, 2004, for county-operated  
14 or county-contracted emergency shelter care facilities that care for  
15 children under the age of six years for no more than 30 days, shall  
16 be contained in regulations for crisis nurseries.

17 (h) This section shall become operative on July 1, 2012.

18 SEC. 3. Section 1526.8 of the Health and Safety Code is  
19 amended to read:

20 1526.8. (a) It is the intent of the Legislature that the department  
21 develop modified staffing levels and requirements for crisis  
22 nurseries, provided that the health, safety, and well-being of the  
23 children in care are protected and maintained.

24 (b) The department shall allow the use of fully trained and  
25 qualified volunteers as caregivers in a crisis nursery, subject to the  
26 following conditions:

27 (1) Volunteers shall be fingerprinted for the purpose of  
28 conducting a criminal record review as specified in subdivision  
29 (b) of Section 1522.

30 (2) Volunteers shall complete a child abuse central index check  
31 as specified in Section 1522.1.

32 (3) Volunteers shall be in good physical health and be tested  
33 for tuberculosis not more than one year prior to, or seven days  
34 after, initial presence in the facility.

35 (4) Prior to assuming the duties and responsibilities of a crisis  
36 caregiver or being counted in the staff-to-child ratio, volunteers  
37 shall complete at least eight hours of initial training divided as  
38 follows:

39 (A) Four hours of crisis nursery job shadowing.

1 (B) Two hours of review of community care licensing  
2 regulations.

3 (C) Two hours of review of the crisis nursery program, including  
4 the facility mission statement, goals and objectives, and special  
5 needs of the client population they serve.

6 (5) Within 90 days, volunteers who are included in the  
7 staff-to-child ratios shall complete at least 20 hours of training  
8 divided as follows:

9 (A) Twelve hours of pediatric first aid and pediatric  
10 cardiopulmonary resuscitation.

11 (B) Eight hours of child care health and safety issues.

12 (6) Volunteers who meet the requirements of paragraphs (1),  
13 (2), and (3), but who have not completed the training specified in  
14 paragraph (4) or (5) may assist a fully trained and qualified staff  
15 person in performing child care duties. However, these volunteers  
16 shall not be left alone with children, shall always be under the  
17 direct supervision and observation of a fully trained and qualified  
18 staff person, and shall not be counted in meeting the minimum  
19 staff-to-child ratio requirements.

20 (c) The department shall allow the use of fully trained and  
21 qualified volunteers to be counted in the staff-to-child ratio in a  
22 crisis nursery subject to the following conditions:

23 (1) The volunteers have fulfilled the requirements in paragraphs  
24 (1) to (4), inclusive, of subdivision (b).

25 (2) There shall be at least one fully qualified and employed staff  
26 person on site at all times.

27 (3) (A) There shall be at least one employed staff or volunteer  
28 caregiver for each group of three children, or fraction thereof, from  
29 7 a.m. to 7 p.m.

30 (B) There shall be at least one paid caregiver or volunteer  
31 caregiver for each group of four children, or fraction thereof, from  
32 7 p.m. to 7 a.m.

33 (C) There shall be at least one employed staff person present  
34 for every volunteer caregiver used by the crisis nursery for the  
35 purpose of meeting the minimum caregiver staffing requirements.

36 (d) There shall be at least one staff person or volunteer caregiver  
37 awake at all times from 7 p.m. to 7 a.m.

38 SEC. 4. Section 1596.792 of the Health and Safety Code, as  
39 amended by Section 4 of Chapter 288 of the Statutes of 2007, is  
40 amended to read:

1 1596.792. This chapter, Chapter 3.5 (commencing with Section  
2 1596.90), and Chapter 3.6 (commencing with Section 1597.30)  
3 do not apply to any of the following:

- 4 (a) Any health facility, as defined by Section 1250.
- 5 (b) Any clinic, as defined by Section 1202.
- 6 (c) Any community care facility, as defined by Section 1502.
- 7 (d) Any family day care home providing care for the children  
8 of only one family in addition to the operator's own children.

9 (e) Any cooperative arrangement between parents for the care  
10 of their children when no payment is involved and the arrangement  
11 meets all of the following conditions:

12 (1) In a cooperative arrangement, parents shall combine their  
13 efforts so that each parent, or set of parents, rotates as the  
14 responsible caregiver with respect to all the children in the  
15 cooperative.

16 (2) Any person caring for children shall be a parent, legal  
17 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of  
18 at least one of the children in the cooperative.

19 (3) There can be no payment of money or receipt of in-kind  
20 income in exchange for the provision of care. This does not prohibit  
21 in-kind contributions of snacks, games, toys, blankets for napping,  
22 pillows, and other materials parents deem appropriate for their  
23 children. It is not the intent of this paragraph to prohibit payment  
24 for outside activities, the amount of which may not exceed the  
25 actual cost of the activity.

26 (4) No more than 12 children are receiving care in the same  
27 place at the same time.

28 (f) Any arrangement for the receiving and care of children by  
29 a relative.

30 (g) Any public recreation program. "Public recreation program"  
31 means a program operated by the state, city, county, special district,  
32 school district, community college district, chartered city, or  
33 chartered city and county that meets either of the following criteria:

34 (1) The program is operated only during hours other than normal  
35 school hours for kindergarten and grades 1 to 12, inclusive, in the  
36 public school district where the program is located, or operated  
37 only during periods when students in kindergarten and grades 1  
38 to 12, inclusive, are normally not in session in the public school  
39 district where the program is located, for either of the following  
40 periods:

1 (A) For under 16 hours per week.

2 (B) For a total of 12 weeks or less during a 12-month period.  
3 This total applies to any 12 weeks within any 12-month period,  
4 without regard to whether the weeks are consecutive.

5 In determining “normal school hours” or periods when students  
6 are “normally not in session,” the State Department of Social  
7 Services shall, when appropriate, consider the normal school hours  
8 or periods when students are normally not in session for students  
9 attending a year-round school.

10 (2) The program is provided to children who are over the age  
11 of four years and nine months and not yet enrolled in school and  
12 the program is operated during either of the following periods:

13 (A) For under 16 hours per week.

14 (B) For a total of 12 weeks or less during a 12-month period.  
15 This total applies to any 12 weeks within any 12-month period,  
16 without regard to whether the weeks are consecutive.

17 (3) The program is provided to children under the age of four  
18 years and nine months with sessions that run 12 hours per week  
19 or less and are 12 weeks or less in duration. A program subject to  
20 this paragraph may permit children to be enrolled in consecutive  
21 sessions throughout the year. However, the program shall not  
22 permit children to be enrolled in a combination of sessions that  
23 total more than 12 hours per week for each child.

24 (h) Extended day care programs operated by public or private  
25 schools.

26 (i) Any school parenting program or adult education child care  
27 program that satisfies both of the following:

28 (1) Is operated by a public school district or operated by an  
29 individual or organization pursuant to a contract with a public  
30 school district.

31 (2) Is not operated by an organization specified in Section  
32 1596.793.

33 (j) Any child day care program that operates only one day per  
34 week for no more than four hours on that one day.

35 (k) Any child day care program that offers temporary child care  
36 services to parents and that satisfies both of the following:

37 (1) The services are only provided to parents and guardians who  
38 are on the same premises as the site of the child day care program.

1 (2) The child day care program is not operated on the site of a  
2 ski facility, shopping mall, department store, or any other similar  
3 site identified by the department by regulation.

4 (l) Any program that provides activities for children of an  
5 instructional nature in a classroom-like setting and satisfies both  
6 of the following:

7 (1) Is operated only during periods of the year when students  
8 in kindergarten and grades 1 to 12, inclusive, are normally not in  
9 session in the public school district where the program is located  
10 due to regularly scheduled vacations.

11 (2) Offers any number of sessions during the period specified  
12 in paragraph (1) that when added together do not exceed a total of  
13 30 days when only schoolage children are enrolled in the program  
14 or 15 days when children younger than schoolage are enrolled in  
15 the program.

16 (m) A program facility administered by the Department of  
17 Corrections and Rehabilitation that (1) houses both women and  
18 their children, and (2) is specifically designated for the purpose of  
19 providing substance abuse treatment and maintaining and  
20 strengthening the family unit pursuant to Chapter 4 (commencing  
21 with Section 3410) of Title 2 of Part 3 of the Penal Code, or  
22 Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2  
23 of that code.

24 (n) Any crisis nursery, as defined in subdivision (a) of Section  
25 1516.

26 SEC. 5. Section 1596.792 of the Health and Safety Code, as  
27 amended by Section 5 of Chapter 288 of the Statutes of 2007, is  
28 repealed.

29 SEC. 6. Section 11400.1 of the Welfare and Institutions Code  
30 is amended to read:

31 11400.1. (a) For purposes of this article, “crisis nursery” means  
32 a facility licensed to provide short-term, 24-hour nonmedical  
33 residential care and supervision for children under six years of age  
34 who are either voluntarily placed for temporary care by a parent  
35 or legal guardian due to a family crisis or stressful situation for no  
36 more than 30 days or, except as provided in subdivision (e) of  
37 Section 1516 of the Health and Safety Code, who are temporarily  
38 placed by a county child welfare service agency for no more than  
39 14 days.

1 (b) This section shall remain in effect only until July 1, 2012,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before July 1, 2012, deletes or extends that date.

4 SEC. 7. Section 11402 of the Welfare and Institutions Code,  
5 as amended by Section 7 of Chapter 288 of the Statutes of 2007,  
6 is amended to read:

7 11402. In order to be eligible for AFDC-FC, a child shall be  
8 placed in one of the following:

9 (a) The approved home of a relative, provided the child is  
10 otherwise eligible for federal financial participation in the  
11 AFDC-FC payment.

12 (b) (1) The licensed family home of a nonrelative.

13 (2) The approved home of a nonrelative extended family  
14 member as described in Section 362.7.

15 (c) A licensed group home, as defined in subdivision (h) of  
16 Section 11400, provided that the placement worker has documented  
17 that the placement is necessary to meet the treatment needs of the  
18 child and that the facility offers those treatment services.

19 (d) The home of a nonrelated legal guardian or the home of a  
20 former nonrelated legal guardian when the guardianship of a child  
21 who is otherwise eligible for AFDC-FC has been dismissed due  
22 to the child's attaining 18 years of age.

23 (e) An exclusive-use home.

24 (f) A licensed transitional housing placement facility, as  
25 described in Section 1559.110 of the Health and Safety Code, and  
26 as defined in Section 11400.

27 (g) An out-of-state group home, provided that the placement  
28 worker, in addition to complying with all other statutory  
29 requirements for placing a minor in an out-of-state group home,  
30 documents that the requirements of Section 7911.1 of the Family  
31 Code have been met.

32 (h) A licensed crisis nursery, as described in Section 1516 of  
33 the Health and Safety Code, and as defined in subdivision (a) of  
34 Section 11400.1.

35 (i) This section shall remain in effect only until July 1, 2012,  
36 and as of that date is repealed, unless a later enacted statute, that  
37 is enacted before July 1, 2012, deletes or extends that date.

38 SEC. 8. Section 11402 of the Welfare and Institutions Code,  
39 as amended by Section 8 of Chapter 288 of the Statutes of 2007,  
40 is amended to read:

1 11402. In order to be eligible for AFDC-FC, a child shall be  
2 placed in one of the following:

3 (a) The approved home of a relative, provided the child is  
4 otherwise eligible for federal financial participation in the  
5 AFDC-FC payment.

6 (b) (1) The licensed family home of a nonrelative.

7 (2) The approved home of a nonrelative extended family  
8 member as described in Section 362.7.

9 (c) A licensed group home, as defined in subdivision (h) of  
10 Section 11400, provided that the placement worker has documented  
11 that the placement is necessary to meet the treatment needs of the  
12 child and that the facility offers those treatment services.

13 (d) The home of a nonrelated legal guardian or the home of a  
14 former nonrelated legal guardian when the guardianship of a child  
15 who is otherwise eligible for AFDC-FC has been dismissed due  
16 to the child’s attaining 18 years of age.

17 (e) An exclusive-use home.

18 (f) A licensed transitional housing placement facility as  
19 described in Section 1559.110 of the Health and Safety Code and  
20 as defined in Section 11400.

21 (g) An out-of-state group home, provided that the placement  
22 worker, in addition to complying with all other statutory  
23 requirements for placing a minor in an out-of-state group home,  
24 documents that the requirements of Section 7911.1 of the Family  
25 Code have been met.

26 (h) This section shall become operative on July 1, 2012.

27 SEC. 9. Section 11462.7 of the Welfare and Institutions Code  
28 is amended to read:

29 11462.7. (a) To the extent federal financial participation is  
30 available, the department shall set a foster care rate for crisis  
31 nurseries, as defined in Section 1516 of the Health and Safety Code  
32 and subdivision (t) of Section 11400.

33 (b) The rate structure required to implement this section shall  
34 be adopted as emergency regulations in accordance with Chapter  
35 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
36 Title 2 of the Government Code. The adoption of these regulations  
37 shall be deemed an emergency and necessary for the immediate  
38 preservation of the public peace, health and safety, or general  
39 welfare. Notwithstanding Chapter 3.5 (commencing with Section  
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

1 emergency regulations adopted to implement this section shall not  
2 be subject to the review and approval of the Office of  
3 Administrative Law. These regulations shall become effective  
4 immediately upon filing with the Secretary of State.

5 (c) Until the department adopts emergency regulations for  
6 establishing a rate for crisis nurseries, the rates shall be established  
7 using the foster care ratesetting system for group homes and subject  
8 to all of the requirements of Article 6 (commencing with Section  
9 11450) of Chapter 2 of Part 3 of Division 9.

10 (d) Volunteers shall not be included in staff-to-child ratios used  
11 in the rate level determination.

12 (e) This section shall remain in effect only until July 1, 2012,  
13 and as of that date is repealed, unless a later enacted statute, that  
14 is enacted before July 1, 2012, deletes or extends that date.

15 SEC. 10. No appropriation pursuant to Section 15200 of the  
16 Welfare and Institutions Code shall be made for purposes of  
17 implementing this act.

18 SEC. 11. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.

O