

ASSEMBLY BILL

No. 181

Introduced by Assembly Member Portantino
(Principal coauthor: Senator Steinberg)

January 24, 2011

An act to amend Section 16164 of, and to add Section 16001.10 to, the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as introduced, Portantino. Foster youth: mental health bill of rights.

Existing law provides that, when a child is removed from his or her family by the juvenile court, placement of the child in foster care should secure, as nearly as possible, the custody, care, and discipline equivalent to that which should have been given the child by his or her parents. Existing law provides enumerated rights for children who are placed in foster care. Existing law establishes the Office of the State Foster Care Ombudsperson to disseminate specified information, including the stated rights of foster youth, and to investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services.

This bill would enumerate rights for foster youth relating to mental health services. The bill would require the office, in consultation with various entities, to develop, no later than July 1, 2012, standardized information explaining the rights specified and to distribute this information to foster youth.

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 16001.10 is added to the Welfare and
2 Institutions Code, to read:
3 16001.10. (a) It is the policy of the state that all children in
4 foster care shall have the following rights relating to mental health
5 services:
6 (1) To receive needed mental health services.
7 (2) To interview a therapist prior to commencing treatment.
8 (3) To discontinue psychotropic medication, as deemed
9 appropriate by a physician, if the youth experiences potentially
10 dangerous side effects.
11 (4) To be presented with mental health options, including, but
12 not limited to, holistic or natural approaches, mentoring, peer
13 counseling, therapy, and medication.
14 (5) To continue services with their therapist or counselor when
15 their residential placement changes for at least one year, or as long
16 as it is in the best interest of the youth, as determined by a court.
17 (6) To be evaluated by a medical professional.
18 (7) To have mental health services provided outside of the place
19 of residence.
20 (8) To be provided with information on how to seek mental
21 health services in their county of residence.
22 (9) To gain access to personal mental health records.
23 (10) Consistent with other state laws, to be guaranteed the
24 protection of confidentiality when interacting with mental health
25 professionals, unless the youth is deemed at risk of harming himself
26 or herself or others.
27 (11) To be given age-appropriate information on drug
28 interactions if prescribed more than one psychotropic medication.
29 (12) To receive timely mental health services in the county of
30 residence and not to be denied services because of the county of
31 origin.
32 (13) To refuse mental health treatment at any time unless
33 deemed medically necessary by the court.
34 (b) The Office of the State Foster Care Ombudsperson, in
35 consultation with the State Department of Mental Health, the
36 Department of Public Health, the State Department of Health Care
37 Services, foster youth advocacy and support groups, and groups
38 representing children, families, foster parents, and children's

1 facilities, and other interested parties, shall develop, no later than
2 July 1, 2012, standardized information explaining the rights
3 specified in this section. The information shall be presented in an
4 age-appropriate manner and shall reflect any relevant licensing
5 requirements and medical information laws.

6 SEC. 2. Section 16164 of the Welfare and Institutions Code is
7 amended to read:

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

10 (1) Disseminate information on the rights of children and youth
11 in foster care and the services provided by the office. The rights
12 of children and youths in foster care are listed in ~~Section~~ *Sections*
13 *16001.9 and 16001.10*. The information shall include notification
14 that conversations with the office may not be confidential.

15 (2) Investigate and attempt to resolve complaints made by or
16 on behalf of children placed in foster care, related to their care,
17 placement, or services.

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

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

25 (5) Update the complainant on the progress of the investigation
26 and notify the complainant of the final outcome.

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

29 (7) (A) Compile and make available to the Legislature all data
30 collected over the course of the year including, but not limited to,
31 the number of contacts to the toll-free telephone number, the
32 number of complaints made, including the type and source of those
33 complaints, the number of investigations performed by the office,
34 the trends and issues that arose in the course of investigating
35 complaints, the number of referrals made, and the number of
36 pending complaints.

37 (B) Present this compiled data, on an annual basis, at appropriate
38 child welfare conferences, forums, and other events, as determined
39 by the department, that may include presentations to, but are not
40 limited to, representatives of the Legislature, the County Welfare

1 Directors Association, child welfare organizations, children's
2 advocacy groups, consumer and service provider organizations,
3 and other interested parties.

4 (C) It is the intent of the Legislature that representatives of the
5 organizations described in subparagraph (B) consider this data in
6 the development of any recommendations offered toward
7 improving the child welfare system.

8 (D) The compiled data shall be posted so that it is available to
9 the public on the existing *Internet* Web site of the State Foster
10 Care Ombudsperson.

11 (8) Have access to any record of a state or local agency that is
12 necessary to carry out his or her responsibilities;—~~and~~.
13 *Representatives of the office* may meet or communicate with any
14 foster child in his or her placement or elsewhere.

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

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

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