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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 388

Introduced by Assembly Member Chesbro

February 15, 2013

An act to amend ~~Sections 1534 and~~ *Section* 1536 of, and to add Section 1538.7 to, the Health and Safety Code, and to amend Sections 241.1, 635, 636, 730.6, 4096.5, and 11469 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 388, as amended, Chesbro. Juveniles.

(1) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including foster family homes and group homes, by the State Department of Social Services. ~~Existing law requires the department to conduct an annual unannounced visit of a facility under certain circumstances, including when an accusation against a licensee is pending. Existing law also requires reports on the results of each inspection, evaluation, or consultation to be kept on file in the department and to be open to public inspection.~~

~~This bill would include when a group home or other facility licensed to provide residential care to 6 or more minors has a specified occurrence of incidents in which law enforcement is called regarding an alleged violation of any law defining a crime, as specified, by a minor residing in the facility as a circumstance that requires the department to conduct an annual unannounced visit of a facility. The bill would require the division of the department with the reports on the results of an inspection prompted by that circumstance to provide the reports to the division of the department responsible for determining and auditing group home rate classification levels and to any other public agency that has certified the facility's program or any component of the facility's program.~~

Existing law requires the department director, at least annually, to publish and make available to interested persons a list covering all licensed community care facilities, except as specified, and the services for which each facility has been licensed or issued a special permit.

~~This bill would require that the list for each licensed community care facility that provides residential care for minors a group home, transitional housing placement provider, community treatment facility, or runaway and homeless youth shelter include specified information, including the number of licensing complaints and the number, types, and outcomes of law enforcement contacts made by the facility staff or residents: children.~~

This bill would require a group home, transitional housing placement provider, community treatment facility, or runaway and homeless youth shelter to report to the department's Community Care Licensing Division upon the occurrence of any incident concerning a child in the facility involving contact with law enforcement. The bill would require the department to inspect a facility at least once a year if the department determines that a facility has reported a greater than average number of law enforcement contacts involving an alleged violation of specified crimes by a child residing in the facility.

(2) Existing law requires the county probation department and the child welfare services department to, pursuant to a jointly developed written protocol, initially determine which status will serve the best interest of a minor and the protection of society when the minor appears to come within the description of a dependent of the court and a ward of the court pursuant to specified provisions. Existing law requires the juvenile court to determine which status is appropriate for the minor after the recommendations of both departments are presented to the court.

This bill would ~~require~~, *authorize*, if the alleged conduct that appears to bring the dependent minor within the description of a ward of the court occurs in, or under the supervision of, a foster home, group home, or other licensed facility that provides residential care for minors, the county probation department and the child welfare services department to consider, in making their determination and recommendation to the court, whether the alleged conduct was within the scope of behaviors to be managed or treated by the facility, as specified. The bill would also ~~require the consideration of whether the alleged conduct was within the scope of behaviors to be managed or treated by the facility~~, *authorize*, among other things, *a requirement for immediate notification of the child welfare service department and the minor's dependency attorney upon referral of a dependent minor to probation*, to be included in the protocols developed by the county probation department and the child welfare services department. ~~By imposing additional duties on local officials, the bill would create a state-mandated local program.~~

(3) Existing law requires the court to determine whether a minor in custody pursuant to specified provisions shall be released from, or detained in, custody, considering, among other things, whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained and whether continuance in the home is contrary to the minor's welfare.

This bill would require that the court's decision to detain, if a minor is a dependent of the court, not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor. The bill would require, in certain circumstances, the court to order the child welfare services department to place the minor in another licensed or approved placement. By imposing additional duties on local officials, the bill would create a state-mandated local program.

(4) Existing law requires the department, in consultation with specified entities to develop performance standards and outcome measures for determining the effectiveness of the care and supervision provided by group homes under the Aid to Families with Dependent Children-Foster Care program.

This bill would require, by January 1, 2016, the department, in consultation with specified entities and persons, to develop additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement

contacts and delinquency petition filings arising in group homes, as specified.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. It is the intent of the Legislature to reduce the
2 frequency of law enforcement involvement and delinquency
3 petitions arising from incidents at group homes and other facilities
4 licensed to provide residential care to dependent children.

5 ~~SEC. 2. Section 1534 of the Health and Safety Code is amended~~
6 ~~to read:~~

7 ~~1534. (a) (1) Every licensed community care facility shall be~~
8 ~~subject to unannounced visits by the department. The department~~
9 ~~shall visit these facilities as often as necessary to ensure the quality~~
10 ~~of care provided.~~

11 ~~(A) The department shall conduct an annual unannounced visit~~
12 ~~to a facility under any of the following circumstances:~~

- 13 ~~(i) When a license is on probation.~~
- 14 ~~(ii) When the terms of agreement in a facility compliance plan~~
15 ~~require an annual evaluation.~~
- 16 ~~(iii) When an accusation against a licensee is pending.~~
- 17 ~~(iv) When a facility requires an annual visit as a condition of~~
18 ~~receiving federal financial participation.~~
- 19 ~~(v) In order to verify that a person who has been ordered out of~~
20 ~~a facility by the department is no longer at the facility.~~
- 21 ~~(vi) When a group home, as defined in Section 1502, or other~~
22 ~~facility licensed to provide residential care to six or more minors~~
23 ~~has an average over a six-month period of more than one incident~~
24 ~~per month, for every six minors for whom the facility is licensed~~
25 ~~to provide care, in which law enforcement is called by facility staff~~
26 ~~regarding an alleged violation of any law defining a crime, as~~

1 specified in subdivision (a) of Section 602 of the Welfare and
2 Institutions Code, by a minor residing in the facility.

3 (B) (i) The department shall conduct annual unannounced visits
4 to no less than 20 percent of facilities not subject to an evaluation
5 under subparagraph (A). These unannounced visits shall be
6 conducted based on a random sampling methodology developed
7 by the department.

8 (ii) If the total citations issued by the department exceed the
9 previous year's total by 10 percent, the following year the
10 department shall increase the random sample by an additional 10
11 percent of the facilities not subject to an evaluation under
12 subparagraph (A). The department may request additional resources
13 to increase the random sample by 10 percent.

14 (C) Under no circumstance shall the department visit a
15 community care facility less often than once every five years.

16 (D) In order to facilitate direct contact with group home clients,
17 the department may interview children who are clients of group
18 homes at any public agency or private agency at which the client
19 may be found, including, but not limited to, a juvenile hall,
20 recreation or vocational program, or a nonpublic school. The
21 department shall respect the rights of the child while conducting
22 the interview, including informing the child that he or she has the
23 right not to be interviewed and the right to have another adult
24 present during the interview.

25 (2) The department shall notify the community care facility in
26 writing of all deficiencies in its compliance with the provisions of
27 this chapter and the rules and regulations adopted pursuant to this
28 chapter, and shall set a reasonable length of time for compliance
29 by the facility.

30 (3) (A) Reports on the results of each inspection, evaluation,
31 or consultation shall be kept on file in the department, and all
32 inspection reports, consultation reports, lists of deficiencies, and
33 plans of correction shall be open to public inspection.

34 (B) If an inspection is required pursuant to clause (vi) of
35 subparagraph (A) of paragraph (1), the division of the department
36 with the reports on the results of each inspection shall provide the
37 reports to the division of the department responsible for
38 determining and auditing group home rate classification levels and
39 to any other public agency that has certified the facility's program
40 or any component of the facility's program, including, but not

1 limited to, the State Department of Health Care Services, which
2 certifies group homes pursuant to Section 4096.5 of the Welfare
3 and Institutions Code.

4 (b) (1) This section shall not limit the authority of the
5 department to inspect or evaluate a licensed foster family agency,
6 a certified family home, or any aspect of a program in which a
7 licensed community care facility is certifying compliance with
8 licensing requirements.

9 (2) Upon a finding of noncompliance by the department, the
10 department may require a foster family agency to deny or revoke
11 the certificate of approval of a certified family home, or take other
12 action the department may deem necessary for the protection of a
13 child placed with the family home. The family home shall be
14 afforded the due process provided pursuant to this chapter.

15 (3) If the department requires a foster family agency to deny or
16 revoke the certificate of approval, the department shall serve an
17 order of denial or revocation upon the certified or prospective
18 foster parent and foster family agency that shall notify the certified
19 or prospective foster parent of the basis of the department's action
20 and of the certified or prospective foster parent's right to a hearing.

21 (4) Within 15 days after the department serves an order of denial
22 or revocation, the certified or prospective foster parent may file a
23 written appeal of the department's decision with the department.
24 The department's action shall be final if the certified or prospective
25 foster parent does not file a written appeal within 15 days after the
26 department serves the denial or revocation order.

27 (5) The department's order of the denial or revocation of the
28 certificate of approval shall remain in effect until the hearing is
29 completed and the director has made a final determination on the
30 merits.

31 (6) A certified or prospective foster parent who files a written
32 appeal of the department's order with the department pursuant to
33 this section shall, as part of the written request, provide his or her
34 current mailing address. The certified or prospective foster parent
35 shall subsequently notify the department in writing of any change
36 in mailing address, until the hearing process has been completed
37 or terminated.

38 (7) Hearings held pursuant to this section shall be conducted in
39 accordance with Chapter 5 (commencing with Section 11500) of
40 Part 1 of Division 3 of Title 2 of the Government Code. In all

1 proceedings conducted in accordance with this section, the standard
2 of proof shall be by a preponderance of the evidence.

3 ~~(8) The department may institute or continue a disciplinary
4 proceeding against a certified or prospective foster parent upon
5 any ground provided by this section, enter an order denying or
6 revoking the certificate of approval, or otherwise take disciplinary
7 action against the certified or prospective foster parent,
8 notwithstanding any resignation, withdrawal of application,
9 surrender of the certificate of approval, or denial or revocation of
10 the certificate of approval by the foster family agency.~~

11 ~~(9) A foster family agency's failure to comply with the
12 department's order to deny or revoke the certificate of employment
13 by placing or retaining children in care shall be grounds for
14 disciplining the licensee pursuant to Section 1550.~~

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 1536 of the Health and Safety Code is amended
17 to read:

18 1536. (a) (1) At least annually, the director shall publish and
19 make available to interested persons a list or lists covering all
20 licensed community care facilities, other than foster family homes
21 and certified family homes of foster family agencies providing
22 24-hour care for six or fewer foster children, and the services for
23 which each facility has been licensed or issued a special permit.

24 (2) ~~For a licensed community care facility described in~~
25 ~~paragraph (1) that provides residential care for minors, group home,~~
26 ~~transitional housing placement provider, community treatment~~
27 ~~facility, or runaway and homeless youth shelter, the list shall~~
28 include both of the following:

29 (A) The number of licensing complaints, types of complaint,
30 and outcomes of complaints, including citations, fines, exclusion
31 orders, license suspensions, revocations, and surrenders.

32 (B) ~~The number, types, and outcomes of law enforcement~~
33 ~~contacts made by the facility staff or residents, the type of incident,~~
34 ~~whether staff, residents, or both were involved, the gender, race,~~
35 ~~ethnicity, and age of residents involved, and the outcomes,~~
36 ~~including arrests, removals of residents from placement, and~~
37 ~~termination or suspension of staff. children, as reported pursuant~~
38 ~~to subdivision (a) of Section 1538.7.~~

39 (b) Subject to subdivision (c), to encourage the recruitment of
40 foster family homes and certified family homes of foster family

1 agencies, protect their personal privacy, and to preserve the security
2 and confidentiality of the placements in the homes, the names,
3 addresses, and other identifying information of facilities licensed
4 as foster family homes and certified family homes of foster family
5 agencies providing 24-hour care for six or fewer children shall be
6 considered personal information for purposes of the Information
7 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
8 of Title 1.8 of Part 4 of Division 3 of the Civil Code). This
9 information shall not be disclosed by any state or local agency
10 pursuant to the California Public Records Act (Chapter 3.5
11 (commencing with Section 6250) of Division 7 of Title 1 of the
12 Government Code), except as necessary for administering the
13 licensing program, facilitating the placement of children in these
14 facilities, and providing names and addresses only to bona fide
15 professional foster parent organizations upon request.

16 (c) Notwithstanding subdivision (b), the department, a county,
17 or a foster family agency may request information from, or divulge
18 information to, the department, a county, or a foster family agency,
19 regarding a prospective certified parent, foster parent, or relative
20 caregiver for the purpose of, and as necessary to, conduct a
21 reference check to determine whether it is safe and appropriate to
22 license, certify, or approve an applicant to be a certified parent,
23 foster parent, or relative caregiver.

24 (d) The department may issue a citation and, after the issuance
25 of that citation, may assess a civil penalty of fifty dollars (\$50) per
26 day for each instance of a foster family agency's failure to provide
27 the department with the information required by subdivision (h)
28 of Section 88061 of Title 22 of the California Code of Regulations.

29 (e) The Legislature encourages the department, when funds are
30 available for this purpose, to develop a database that would include
31 all of the following information:

32 (1) Monthly reports by a foster family agency regarding family
33 homes.

34 (2) A log of family homes certified and decertified, provided
35 by a foster family agency to the department.

36 (3) Notification by a foster family agency to the department
37 informing the department of a foster family agency's determination
38 to decertify a certified family home due to any of the following
39 actions by the certified family parent:

40 (A) Violating licensing rules and regulations.

1 (B) Aiding, abetting, or permitting the violation of licensing
2 rules and regulations.

3 (C) Conducting oneself in a way that is inimical to the health,
4 morals, welfare, or safety of a child placed in that certified family
5 home.

6 (D) Being convicted of a crime while a certified family parent.

7 (E) Knowingly allowing any child to have illegal drugs or
8 alcohol.

9 (F) Committing an act of child abuse or neglect or an act of
10 violence against another person.

11 ~~SEC. 4.~~

12 *SEC. 3.* Section 1538.7 is added to the Health and Safety Code,
13 to read:

14 ~~1538.7. (a) A group home or other facility licensed to provide~~
15 ~~residential care to minors home, transitional housing placement~~
16 ~~provider, community treatment facility, or runaway and homeless~~
17 ~~youth shelter shall report to the department's Community Care~~
18 ~~Licensing Division upon the occurrence of any incident concerning~~
19 ~~a resident of child in the facility involving contact with law~~
20 ~~enforcement. At least quarterly, every six months, the facility shall~~
21 ~~provide a followup report for each incident involving law~~
22 ~~enforcement, incident, including the type of incident, whether the~~
23 ~~incident involved an alleged violation of any crime described in~~
24 ~~Section 602 of the Welfare and Institutions Code by a child residing~~
25 ~~in the facility; whether staff, residents, children, or both were~~
26 ~~involved; involved; the gender, race, ethnicity, and age of residents~~
27 ~~involved; children involved; and the outcomes, including arrests,~~
28 ~~removals of residents children from placement, and or termination~~
29 ~~or suspension of staff.~~

30 *(b) (1) If the department determines that, based on the licensed*
31 *capacity, a facility has reported, pursuant to subdivision (a), a*
32 *greater than average number of law enforcement contacts involving*
33 *an alleged violation of any crime described in Section 602 of the*
34 *Welfare and Institutions Code by a child residing in the facility,*
35 *the department shall inspect the facility at least once a year.*

36 *(2) An inspection conducted pursuant to paragraph (1) does*
37 *not constitute an unannounced inspection required pursuant to*
38 *Section 1534.*

39 *(c) If an inspection is required pursuant to subdivision (b), the*
40 *Community Care Licensing Division shall provide the report to*

1 *the department's Children and Family Services Division and to*
2 *any other public agency that has certified the facility's program*
3 *or any component of the facility's program including, but not*
4 *limited to, the State Department of Health Care Services, which*
5 *certifies group homes pursuant to Section 4096.5 of the Welfare*
6 *and Institutions Code.*

7 ~~SEC. 5.~~

8 *SEC. 4.* Section 241.1 of the Welfare and Institutions Code is
9 amended to read:

10 241.1. (a) Whenever a minor appears to come within the
11 description of both Section 300 and Section 601 or 602, the county
12 probation department and the child welfare services department
13 shall, pursuant to a jointly developed written protocol described
14 in subdivision (b), initially determine which status will serve the
15 best interests of the minor and the protection of society. The
16 recommendations of both departments shall be presented to the
17 juvenile court with the petition that is filed on behalf of the minor,
18 and the court shall determine which status is appropriate for the
19 minor. Any other juvenile court having jurisdiction over the minor
20 shall receive notice from the court, within five calendar days, of
21 the presentation of the recommendations of the departments. The
22 notice shall include the name of the judge to whom, or the
23 courtroom to which, the recommendations were presented.

24 (b) (1) The probation department and the child welfare services
25 department in each county shall jointly develop a written protocol
26 to ensure appropriate local coordination in the assessment of a
27 minor described in subdivision (a), and the development of
28 recommendations by these departments for consideration by the
29 juvenile court.

30 (2) These protocols shall require, but not be limited to,
31 consideration of the nature of the referral, the age of the minor,
32 the prior record of the minor's parents for child abuse, the prior
33 record of the minor for out-of-control or delinquent behavior, the
34 parents' cooperation with the minor's school, the minor's
35 functioning at school, the nature of the minor's home environment,
36 and the records of other agencies that have been involved with the
37 minor and his or her family. The protocols also shall contain
38 provisions for resolution of disagreements between the probation
39 and child welfare services departments regarding the need for
40 dependency or ward status and provisions for determining the

1 circumstances under which filing a new petition is required to
2 change the minor's status.

3 (3) (A) ~~For a minor who is a dependent of the court pursuant~~
4 ~~to Section 300 and then appears to come within the description of~~
5 ~~Section 601 or 602, the~~ *These* protocols shall require, but not be
6 ~~limited to, may also require~~ immediate notification of the child
7 welfare services department and the minor's dependency attorney
8 upon referral *of a dependent minor* to probation, procedures for
9 release to, and placement by, the child welfare services department
10 pending resolution of the determination pursuant to this section,
11 timelines for dependents in secure custody to ensure timely
12 resolution of the determination pursuant to this section for detained
13 dependents, ~~consideration of whether the alleged conduct occurred~~
14 ~~in, or under the supervision of, a foster home, group home, or other~~
15 ~~licensed residential facilities serving minors, and if so, whether~~
16 ~~the alleged conduct is within the scope of behaviors identified in~~
17 ~~the minor's case plan, needs and services plan, placement~~
18 ~~agreement, or the facility's plan of operation, or the facility's~~
19 ~~emergency intervention plan as behavior to be managed or treated~~
20 ~~by the home or facility;~~ and nondiscrimination provisions to ensure
21 that dependents are provided with any option that would otherwise
22 be available to a nondependent minor.

23 (B) If the alleged conduct that appears to bring ~~the~~ *a* dependent
24 minor within the description of Section 601 or 602 occurs in, or
25 under the supervision of, a foster home, group home, or other
26 licensed facility that provides residential care for minors, the county
27 probation department and the child welfare services department
28 ~~shall~~ *may* consider whether the alleged conduct was within the
29 scope of behaviors to be managed or treated by the foster home
30 or facility, as identified in the minor's case plan, needs and services
31 plan, placement agreement, facility plan of operation, or facility
32 emergency intervention plan, in determining which status will
33 serve the best interests of the minor and the protection of society
34 pursuant to subdivision (a).

35 (4) The protocols shall contain the following processes:

36 (A) A process for determining which agency and court shall
37 supervise a child whose jurisdiction is modified from delinquency
38 jurisdiction to dependency jurisdiction pursuant to paragraph (2)
39 of subdivision (b) of Section 607.2 or subdivision (i) of Section
40 727.2.

1 (B) A process for determining which agency and court shall
2 supervise a nonminor dependent under the transition jurisdiction
3 of the juvenile court.

4 (C) A process that specifically addresses the manner in which
5 supervision responsibility is determined when a nonminor
6 dependent becomes subject to adult probation supervision.

7 (c) Whenever a minor who is under the jurisdiction of the
8 juvenile court of a county pursuant to Section 300, 601, or 602 is
9 alleged to come within the description of Section 300, 601, or 602
10 by another county, the county probation department or child
11 welfare services department in the county that has jurisdiction
12 under Section 300, 601, or 602 and the county probation
13 department or child welfare services department of the county
14 alleging the minor to be within one of those sections shall initially
15 determine which status will best serve the best interests of the
16 minor and the protection of society. The recommendations of both
17 departments shall be presented to the juvenile court in which the
18 petition is filed on behalf of the minor, and the court shall
19 determine which status is appropriate for the minor. In making
20 their recommendation to the juvenile court, the departments shall
21 conduct an assessment consistent with the requirements of
22 subdivision (b). Any other juvenile court having jurisdiction over
23 the minor shall receive notice from the court in which the petition
24 is filed within five calendar days of the presentation of the
25 recommendations of the departments. The notice shall include the
26 name of the judge to whom, or the courtroom to which, the
27 recommendations were presented.

28 (d) Except as provided in subdivision (e), this section shall not
29 authorize the filing of a petition or petitions, or the entry of an
30 order by the juvenile court, to make a minor simultaneously both
31 a dependent child and a ward of the court.

32 (e) Notwithstanding subdivision (d), the probation department
33 and the child welfare services department, in consultation with the
34 presiding judge of the juvenile court, in any county may create a
35 jointly written protocol to allow the county probation department
36 and the child welfare services department to jointly assess and
37 produce a recommendation that the child be designated as a dual
38 status child, allowing the child to be simultaneously a dependent
39 child and a ward of the court. This protocol shall be signed by the
40 chief probation officer, the director of the county social services

1 agency, and the presiding judge of the juvenile court prior to its
2 implementation. A juvenile court shall not order that a child is
3 simultaneously a dependent child and a ward of the court pursuant
4 to this subdivision unless and until the required protocol has been
5 created and entered into. This protocol shall include all of the
6 following:

7 (1) A description of the process to be used to determine whether
8 the child is eligible to be designated as a dual status child.

9 (2) A description of the procedure by which the probation
10 department and the child welfare services department will assess
11 the necessity for dual status for specified children and the process
12 to make joint recommendations for the court's consideration prior
13 to making a determination under this section. These
14 recommendations shall ensure a seamless transition from wardship
15 to dependency jurisdiction, as appropriate, so that services to the
16 child are not disrupted upon termination of the wardship.

17 (3) A provision for ensuring communication between the judges
18 who hear petitions concerning children for whom dependency
19 jurisdiction has been suspended while they are within the
20 jurisdiction of the juvenile court pursuant to Section 601 or 602.
21 A judge may communicate by providing a copy of any reports
22 filed pursuant to Section 727.2 concerning a ward to a court that
23 has jurisdiction over dependency proceedings concerning the child.

24 (4) A plan to collect data in order to evaluate the protocol
25 pursuant to Section 241.2.

26 (5) Counties that exercise the option provided for in this
27 subdivision shall adopt either an "on-hold" system as described
28 in subparagraph (A) or a "lead court/lead agency" system as
29 described in subparagraph (B). There shall not be any simultaneous
30 or duplicative case management or services provided by both the
31 county probation department and the child welfare services
32 department. It is the intent of the Legislature that judges, in cases
33 in which more than one judge is involved, shall not issue
34 conflicting orders.

35 (A) In counties in which an on-hold system is adopted, the
36 dependency jurisdiction shall be suspended or put on hold while
37 the child is subject to jurisdiction as a ward of the court. When it
38 appears that termination of the court's jurisdiction, as established
39 pursuant to Section 601 or 602, is likely and that reunification of
40 the child with his or her parent or guardian would be detrimental

1 to the child, the county probation department and the child welfare
2 services department shall jointly assess and produce a
3 recommendation for the court regarding whether the court's
4 dependency jurisdiction shall be resumed.

5 (B) In counties in which a lead court/lead agency system is
6 adopted, the protocol shall include a method for identifying which
7 court or agency will be the lead court/lead agency. That court or
8 agency shall be responsible for case management, conducting
9 statutorily mandated court hearings, and submitting court reports.

10 (f) Whenever the court determines pursuant to this section or
11 Section 607.2 or 727.2 that it is necessary to modify the court's
12 jurisdiction over a dependent or ward who was removed from his
13 or her parent or guardian and placed in foster care, the court shall
14 ensure that all of the following conditions are met:

15 (1) The petition under which jurisdiction was taken at the time
16 the dependent or ward was originally removed is not dismissed
17 until the new petition has been sustained.

18 (2) The order modifying the court's jurisdiction contains all of
19 the following provisions:

20 (A) Reference to the original removal findings and a statement
21 that findings that continuation in the home is contrary to the child's
22 welfare, and that reasonable efforts were made to prevent removal,
23 remain in effect.

24 (B) A statement that the child continues to be removed from
25 the parent or guardian from whom the child was removed under
26 the original petition.

27 (C) Identification of the agency that is responsible for placement
28 and care of the child based upon the modification of jurisdiction.

29 ~~SEC. 6.~~

30 *SEC. 5.* Section 635 of the Welfare and Institutions Code is
31 amended to read:

32 635. (a) The court will examine the minor, his or her parent,
33 legal guardian, or other person having relevant knowledge, hear
34 relevant evidence the minor, his or her parent, legal guardian, or
35 counsel desires to present, and, unless it appears that the minor
36 has violated an order of the juvenile court or has escaped from the
37 commitment of the juvenile court or that it is a matter of immediate
38 and urgent necessity for the protection of the minor or reasonably
39 necessary for the protection of the person or property of another
40 that he or she be detained or that the minor is likely to flee to avoid

1 the jurisdiction of the court, the court shall make its order releasing
2 the minor from custody.

3 (b) (1) The circumstances and gravity of the alleged offense
4 may be considered, in conjunction with other factors, to determine
5 whether it is a matter of immediate and urgent necessity for the
6 protection of the minor or reasonably necessary for the protection
7 of the person or property of another that the minor be detained.

8 (2) If a minor is a dependent of the court pursuant to Section
9 300, the court's decision to detain shall not be based on the minor's
10 status as a dependent of the court or the child welfare services
11 department's inability to provide a placement for the minor.

12 (c) (1) The court shall order release of the minor from custody
13 unless a prima facie showing has been made that the minor is a
14 person described in Section 601 or 602.

15 (2) If the court orders release of a minor who is a dependent of
16 the court pursuant to Section 300, the court shall order the child
17 welfare services department either to ensure that the minor's current
18 foster parent or other caregiver takes physical custody of the minor
19 or to take physical custody of the minor and place the minor in a
20 licensed or approved placement.

21 (d) If the probation officer has reason to believe that the minor
22 is at risk of entering foster care placement as described in Section
23 11402, then the probation officer shall submit a written report to
24 the court containing all of the following:

25 (1) The reasons why the minor has been removed from the
26 parent's custody.

27 (2) Any prior referrals for abuse or neglect of the minor or any
28 prior filings regarding the minor pursuant to Section 300.

29 (3) The need, if any, for continued detention.

30 (4) The available services that could facilitate the return of the
31 minor to the custody of the minor's parents or guardians.

32 (5) Whether there are any relatives who are able and willing to
33 provide effective care and control over the minor.

34 ~~SEC. 7.~~

35 *SEC. 6.* Section 636 of the Welfare and Institutions Code is
36 amended to read:

37 636. (a) If it appears upon the hearing that the minor has
38 violated an order of the juvenile court or has escaped from a
39 commitment of the juvenile court or that it is a matter of immediate
40 and urgent necessity for the protection of the minor or reasonably

1 necessary for the protection of the person or property of another
2 that he or she be detained or that the minor is likely to flee to avoid
3 the jurisdiction of the court, and that continuance in the home is
4 contrary to the minor's welfare, the court may make its order that
5 the minor be detained in the juvenile hall or other suitable place
6 designated by the juvenile court for a period not to exceed 15
7 judicial days and shall enter the order together with its findings of
8 fact in support thereof in the records of the court. The
9 circumstances and gravity of the alleged offense may be
10 considered, in conjunction with other factors, to determine whether
11 it is a matter of immediate and urgent necessity for the protection
12 of the minor or the person or property of another that the minor
13 be detained. If a minor is a dependent of the court pursuant to
14 Section 300, the court's decision to detain shall not be based on
15 the minor's status as a dependent of the court or the child welfare
16 services department's inability to provide a placement for the
17 minor.

18 (b) If the court finds that the criteria of Section 628.1 are
19 applicable, the court shall place the minor on home supervision
20 for a period not to exceed 15 judicial days, and shall enter the order
21 together with its findings of fact in support thereof in the records
22 of the court. If the court releases the minor on home supervision,
23 the court may continue, modify, or augment any conditions of
24 release previously imposed by the probation officer, or may impose
25 new conditions on a minor released for the first time. If there are
26 new or modified conditions, the minor shall be required to sign a
27 written promise to obey those conditions pursuant to Section 628.1.

28 (c) If the probation officer is recommending that the minor be
29 detained, the probation officer shall submit to the court
30 documentation, as follows:

31 (1) Documentation that continuance in the home is contrary to
32 the minor's welfare shall be submitted to the court as part of the
33 detention report prepared pursuant to Section 635.

34 (2) Documentation that reasonable efforts were made to prevent
35 or eliminate the need for removal of the minor from the home and
36 documentation of the nature and results of the services provided
37 shall be submitted to the court either as part of the detention report
38 prepared pursuant to Section 635, or as part of a case plan prepared
39 pursuant to Section 636.1, but in no case later than 60 days from
40 the date of detention.

1 (d) Except as provided in subdivision (e), before detaining the
2 minor, the court shall determine whether continuance in the home
3 is contrary to the minor's welfare and whether there are available
4 services that would prevent the need for further detention. The
5 court shall make that determination on a case-by-case basis and
6 shall make reference to the documentation provided by the
7 probation officer or other evidence relied upon in reaching its
8 decision.

9 (1) If the minor can be returned to the custody of his or her
10 parent or legal guardian at the detention hearing, through the
11 provision of services to prevent removal, the court shall release
12 the minor to the physical custody of his or her parent or legal
13 guardian and order that those services be provided.

14 (2) If the minor cannot be returned to the custody of his or her
15 parent or legal guardian at the detention hearing, the court shall
16 state the facts upon which the detention is based. The court shall
17 make the following findings on the record and reference the
18 probation officer's report or other evidence relied upon to make
19 its determinations:

20 (A) Whether continuance in the home of the parent or legal
21 guardian is contrary to the minor's welfare.

22 (B) Whether reasonable efforts have been made to safely
23 maintain the minor in the home of his or her parent or legal
24 guardian and to prevent or eliminate the need for removal of the
25 minor from his or her home. This finding shall be made at the
26 detention hearing if possible, but in no case later than 60 days
27 following the minor's removal from the home.

28 (3) If the minor cannot be returned to the custody of his or her
29 parent or legal guardian at the detention hearing, the court shall
30 make the following orders:

31 (A) The probation officer shall provide services as soon as
32 possible to enable the minor's parent or legal guardian to obtain
33 any assistance as may be needed to enable the parent or guardian
34 to effectively provide the care and control necessary for the minor
35 to return to the home.

36 (B) The minor's placement and care shall be the responsibility
37 of the probation department pending disposition or further order
38 of the court.

39 (4) If the matter is set for rehearing pursuant to Section 637, or
40 continued pursuant to Section 638, or continued for any other

1 reason, the court shall find that the continuance of the minor in
2 the parent's or guardian's home is contrary to the minor's welfare
3 at the initial petition hearing or order the release of the minor from
4 custody.

5 (e) For a minor who is a dependent of the court pursuant to
6 Section 300, the court's decision to detain the minor shall not be
7 based on a finding that continuance in the minor's current
8 placement is contrary to the minor's welfare. If the court determines
9 that continuance in the minor's current placement is contrary to
10 the minor's welfare, the court shall order the child welfare services
11 department to place the minor in another licensed or approved
12 placement.

13 (f) Whether the minor is returned home or detained, the court
14 shall order the minor's parent or guardian to cooperate with the
15 probation officer in obtaining those services described in paragraph
16 (1) of, or in subparagraph (A) of paragraph (3) of, subdivision (d).

17 ~~SEC. 8.~~

18 *SEC. 7.* Section 730.6 of the Welfare and Institutions Code is
19 amended to read:

20 730.6. (a) (1) It is the intent of the Legislature that a victim
21 of conduct for which a minor is found to be a person described in
22 Section 602 who incurs any economic loss as a result of the minor's
23 conduct shall receive restitution directly from that minor.

24 (2) Upon a minor being found to be a person described in
25 Section 602, the court shall consider levying a fine in accordance
26 with Section 730.5. In addition, the court shall order the minor to
27 pay, in addition to any other penalty provided or imposed under
28 the law, both of the following:

29 (A) A restitution fine in accordance with subdivision (b).

30 (B) Restitution to the victim or victims, if any, in accordance
31 with subdivision (h).

32 (b) If a minor is found to be a person described in Section 602,
33 the court shall impose a separate and additional restitution fine.
34 The restitution fine shall be set at the discretion of the court and
35 commensurate with the seriousness of the offense as follows:

36 (1) If the minor is found to be a person described in Section 602
37 by reason of the commission of one or more felony offenses, the
38 restitution fine shall not be less than one hundred dollars (\$100)
39 and not more than one thousand dollars (\$1,000). A separate
40 hearing for the fine shall not be required.

1 (2) If the minor is found to be a person described in Section 602
2 by reason of the commission of one or more misdemeanor offenses,
3 the restitution fine shall not exceed one hundred dollars (\$100). A
4 separate hearing for the fine shall not be required.

5 (c) The restitution fine shall be in addition to any other
6 disposition or fine imposed and shall be imposed regardless of the
7 minor's inability to pay. This fine shall be deposited in the
8 Restitution Fund.

9 (d) (1) In setting the amount of the fine pursuant to
10 subparagraph (A) of paragraph (2) of subdivision (a), the court
11 shall consider any relevant factors including, but not limited to,
12 the minor's ability to pay, the seriousness and gravity of the offense
13 and the circumstances of its commission, any economic gain
14 derived by the minor as a result of the offense, and the extent to
15 which others suffered losses as a result of the offense. The losses
16 may include pecuniary losses to the victim or his or her dependents
17 as well as intangible losses such as psychological harm caused by
18 the offense.

19 (2) The consideration of a minor's ability to pay may include
20 his or her future earning capacity. A minor shall bear the burden
21 of demonstrating a lack of his or her ability to pay.

22 (e) Express findings of the court as to the factors bearing on the
23 amount of the fine shall not be required.

24 (f) Except as provided in subdivision (g), under no circumstances
25 shall the court fail to impose the separate and additional restitution
26 fine required by subparagraph (A) of paragraph (2) of subdivision
27 (a). This fine shall not be subject to penalty assessments pursuant
28 to Section 1464 of the Penal Code.

29 (g) (1) In a case in which the minor is a person described in
30 Section 602 by reason of having committed a felony offense, if
31 the court finds that there are compelling and extraordinary reasons,
32 the court may waive imposition of the restitution fine required by
33 subparagraph (A) of paragraph (2) of subdivision (a). When a
34 waiver is granted, the court shall state on the record all reasons
35 supporting the waiver.

36 (2) If the minor is a person described in ~~paragraph (2) of~~
37 subdivision (a) of Section 241.1, the court shall waive imposition
38 of the restitution fine required by subparagraph (A) of paragraph
39 (2) of subdivision (a).

1 (h) (1) Restitution ordered pursuant to subparagraph (B) of
2 paragraph (2) of subdivision (a) shall be imposed in the amount
3 of the losses, as determined. If the amount of loss cannot be
4 ascertained at the time of sentencing, the restitution order shall
5 include a provision that the amount shall be determined at the
6 direction of the court at any time during the term of the
7 commitment or probation. The court shall order full restitution
8 unless it finds compelling and extraordinary reasons for not doing
9 so, and states them on the record. A minor's inability to pay shall
10 not be considered a compelling or extraordinary reason not to
11 impose a restitution order, nor shall inability to pay be a
12 consideration in determining the amount of the restitution order.
13 A restitution order pursuant to subparagraph (B) of paragraph (2)
14 of subdivision (a), to the extent possible, shall identify each victim,
15 unless the court for good cause finds that the order should not
16 identify a victim or victims, and the amount of each victim's loss
17 to which it pertains, and shall be of a dollar amount sufficient to
18 fully reimburse the victim or victims for all determined economic
19 losses incurred as the result of the minor's conduct for which the
20 minor was found to be a person described in Section 602, including
21 all of the following:

22 (A) Full or partial payment for the value of stolen or damaged
23 property. The value of stolen or damaged property shall be the
24 replacement cost of like property, or the actual cost of repairing
25 the property when repair is possible.

26 (B) Medical expenses.

27 (C) Wages or profits lost due to injury incurred by the victim,
28 and if the victim is a minor, wages or profits lost by the minor's
29 parent, parents, guardian, or guardians, while caring for the injured
30 minor. Lost wages shall include any commission income as well
31 as any base wages. Commission income shall be established by
32 evidence of commission income during the 12-month period prior
33 to the date of the crime for which restitution is being ordered,
34 unless good cause for a shorter time period is shown.

35 (D) Wages or profits lost by the victim, and if the victim is a
36 minor, wages or profits lost by the minor's parent, parents,
37 guardian, or guardians, due to time spent as a witness or in assisting
38 the police or prosecution. Lost wages shall include any commission
39 income as well as any base wages. Commission income shall be
40 established by evidence of commission income during the

1 12-month period prior to the date of the crime for which restitution
2 is being ordered, unless good cause for a shorter time period is
3 shown.

4 (2) A minor shall have the right to a hearing before a judge to
5 dispute the determination of the amount of restitution. The court
6 may modify the amount on its own motion or on the motion of the
7 district attorney, the victim or victims, or the minor. If a motion
8 is made for modification of a restitution order, the victim shall be
9 notified of that motion at least 10 days prior to the hearing on the
10 motion. When the amount of victim restitution is not known at the
11 time of disposition, the court order shall identify the victim or
12 victims, unless the court finds for good cause that the order should
13 not identify a victim or victims, and state that the amount of
14 restitution for each victim is to be determined. When feasible, the
15 court shall also identify on the court order, any cooffenders who
16 are jointly and severally liable for victim restitution.

17 (i) A restitution order imposed pursuant to subparagraph (B) of
18 paragraph (2) of subdivision (a) shall identify the losses to which
19 it pertains, and shall be enforceable as a civil judgment pursuant
20 to subdivision (r). The making of a restitution order pursuant to
21 this subdivision shall not affect the right of a victim to recovery
22 from the Restitution Fund in the manner provided elsewhere, except
23 to the extent that restitution is actually collected pursuant to the
24 order. Restitution collected pursuant to this subdivision shall be
25 credited to any other judgments for the same losses obtained against
26 the minor or the minor's parent or guardian arising out of the
27 offense for which the minor was found to be a person described
28 in Section 602. Restitution imposed shall be ordered to be made
29 to the Restitution Fund to the extent that the victim, as defined in
30 subdivision (j), has received assistance from the Victims of Crime
31 Program pursuant to Article 5 (commencing with Section 13959)
32 of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government
33 Code.

34 (j) For purposes of this section, "victim" shall include:

35 (1) The immediate surviving family of the actual victim.

36 (2) Any governmental entity that is responsible for repairing,
37 replacing, or restoring public or privately owned property that has
38 been defaced with graffiti or other inscribed material, as defined
39 in subdivision (e) of Section 594 of the Penal Code, and that has

1 sustained an economic loss as the result of a violation of Section
2 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

3 (k) This section shall not prevent a court from ordering
4 restitution to any corporation, business trust, estate, trust,
5 partnership, association, joint venture, government, governmental
6 subdivision, agency, or instrumentality, or any other legal or
7 commercial entity when that entity is a direct victim of an offense.
8 If the direct victim is a group home or other facility licensed to
9 provide residential care in which the minor was placed as a
10 dependent or ward of the court, or an employee thereof, restitution
11 shall be limited to out-of-pocket expenses that are not covered by
12 insurance and that are paid by the facility or employee.

13 (l) Upon a minor being found to be a person described in Section
14 602, the court shall require, as a condition of probation, the
15 payment of restitution fines and orders imposed under this section.
16 Any portion of a restitution order that remains unsatisfied after a
17 minor is no longer on probation shall continue to be enforceable
18 by a victim pursuant to subdivision (r) until the obligation is
19 satisfied in full.

20 (m) Probation shall not be revoked for failure of a person to
21 make restitution pursuant to this section as a condition of probation
22 unless the court determines that the person has willfully failed to
23 pay or failed to make sufficient bona fide efforts to legally acquire
24 the resources to pay.

25 (n) If the court finds and states on the record compelling and
26 extraordinary reasons why restitution should not be required as
27 provided in paragraph (2) of subdivision (a), the court shall order,
28 as a condition of probation, that the minor perform specified
29 community service.

30 (o) The court may avoid ordering community service as a
31 condition of probation only if it finds and states on the record
32 compelling and extraordinary reasons not to order community
33 service in addition to the finding that restitution pursuant to
34 paragraph (2) of subdivision (a) should not be required.

35 (p) When a minor is committed to the Department of the Youth
36 Authority, the court shall order restitution to be paid to the victim
37 or victims, if any. Payment of restitution to the victim or victims
38 pursuant to this subdivision shall take priority in time over payment
39 of any other restitution fine imposed pursuant to this section.

1 (q) At its discretion, the board of supervisors of any county may
2 impose a fee to cover the actual administrative cost of collecting
3 the restitution fine, not to exceed 10 percent of the amount ordered
4 to be paid, to be added to the restitution fine and included in the
5 order of the court, the proceeds of which shall be deposited in the
6 general fund of the county.

7 (r) If the judgment is for a restitution fine ordered pursuant to
8 subparagraph (A) of paragraph (2) of subdivision (a), or a
9 restitution order imposed pursuant to subparagraph (B) of
10 paragraph (2) of subdivision (a), the judgment may be enforced
11 in the manner provided in Section 1214 of the Penal Code.

12 ~~SEC. 9.~~

13 *SEC. 8.* Section 4096.5 of the Welfare and Institutions Code
14 is amended to read:

15 4096.5. (a) The State Department of Health Care Services
16 shall make a determination, within 45 days of receiving a request
17 from a group home to be classified at RCL 13 or RCL 14 pursuant
18 to Section 11462.01, to certify or deny certification that the group
19 home program includes provisions for mental health treatment
20 services that meet the needs of seriously emotionally disturbed
21 children. The department shall issue each certification for a period
22 of one year and shall specify the effective date the program met
23 the certification requirements. A program may be recertified if the
24 program continues to meet the criteria for certification.

25 (b) The State Department of Health Care Services shall, in
26 consultation with the California Mental Health Directors
27 Association and representatives of provider organizations, develop
28 the criteria for the certification required by subdivision (a) by July
29 1, 1992.

30 (c) (1) The State Department of Health Care Services may,
31 upon the request of a county, delegate to that county the
32 certification task.

33 (2) Any county to which the certification task is delegated
34 pursuant to paragraph (1) shall use the criteria and format
35 developed by the department.

36 (d) The State Department of Health Care Services or delegated
37 county shall notify the State Department of Social Services
38 Community Care Licensing Division immediately upon the
39 termination of any certification issued in accordance with
40 subdivision (a).

1 (e) Upon receipt of notification from the State Department of
2 Social Services Community Care Licensing Division of any adverse
3 licensing action taken after the finding of noncompliance during
4 an ~~unannounced visit~~ *inspection* conducted pursuant to Section
5 ~~1534~~ 1538.7 of the Health and Safety Code, the State Department
6 of Health Care Services or the delegated county shall review the
7 certification issued pursuant to this section.

8 ~~SEC. 10.~~

9 *SEC. 9.* Section 11469 of the Welfare and Institutions Code is
10 amended to read:

11 11469. (a) The department, in consultation with group home
12 providers, the County Welfare Directors Association, the Chief
13 Probation Officers of California, the California Mental Health
14 Directors Association, and the State Department of Health Care
15 Services, shall develop performance standards and outcome
16 measures for determining the effectiveness of the care and
17 supervision, as defined in subdivision (b) of Section 11460,
18 provided by group homes under the AFDC-FC program pursuant
19 to Sections 11460 and 11462. These standards shall be designed
20 to measure group home program performance for the client group
21 that the group home program is designed to serve.

22 (1) The performance standards and outcome measures shall be
23 designed to measure the performance of group home programs in
24 areas over which the programs have some degree of influence, and
25 in other areas of measurable program performance that the
26 department can demonstrate are areas over which group home
27 programs have meaningful managerial or administrative influence.

28 (2) These standards and outcome measures shall include, but
29 are not limited to, the effectiveness of services provided by each
30 group home program, and the extent to which the services provided
31 by the group home assist in obtaining the child welfare case plan
32 objectives for the child.

33 (3) In addition, when the group home provider has identified
34 as part of its program for licensing, ratesetting, or county placement
35 purposes, or has included as a part of a child's case plan by mutual
36 agreement between the group home and the placing agency,
37 specific mental health, education, medical, and other child-related
38 services, the performance standards and outcome measures may
39 also measure the effectiveness of those services.

1 (b) Regulations regarding the implementation of the group home
2 performance standards system required by this section shall be
3 adopted no later than one year prior to implementation. The
4 regulations shall specify both the performance standards system
5 and the manner by which the AFDC-FC rate of a group home
6 program shall be adjusted if performance standards are not met.

7 (c) Except as provided in subdivision (d), effective July 1, 1995,
8 group home performance standards shall be implemented. Any
9 group home program not meeting the performance standards shall
10 have its AFDC-FC rate, set pursuant to Section 11462, adjusted
11 according to the regulations required by this section.

12 (d) Effective July 1, 1995, group home programs shall be
13 classified at rate classification level 13 or 14 only if all of the
14 following are met:

15 (1) The program generates the requisite number of points for
16 rate classification level 13 or 14.

17 (2) The program only accepts children with special treatment
18 needs as determined through the assessment process pursuant to
19 paragraph (2) of subdivision (a) of Section 11462.01.

20 (3) The program meets the performance standards designed
21 pursuant to this section.

22 (e) Notwithstanding subdivision (c), the group home program
23 performance standards system shall not be implemented prior to
24 the implementation of the AFDC-FC performance standards
25 system.

26 (f) By January 1, 2016, the department, in consultation with the
27 County Welfare Directors Association, the Chief Probation Officers
28 of California, the California Mental Health Directors Association,
29 research entities, foster youth and advocates for foster youth, foster
30 care provider business entities organized and operated on a
31 nonprofit basis, Indian tribes, and other stakeholders, shall develop
32 additional performance standards and outcome measures that
33 require group homes to implement programs and services to
34 minimize law enforcement contacts and delinquency petition filings
35 arising from incidents of allegedly unlawful behavior by minors
36 occurring in group homes or under the supervision of group home
37 staff, including individualized behavior management programs,
38 emergency intervention plans, and conflict resolution processes.

1 ~~SEC. 11.~~

2 *SEC. 10.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

O