

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 738

Introduced by Senator Yee

February 22, 2013

~~An act relating to criminal records.~~ *An act to amend Sections 1522.41 and 1529.2 of the Health and Safety Code, and to amend Sections 300, 16003, and 16540 of, and to add Chapter 4 (commencing with Section 2200) to Division 2.5 of, the Welfare and Institutions Code, relating to minors.*

LEGISLATIVE COUNSEL'S DIGEST

SB 738, as amended, Yee. ~~Criminal records; expungement.~~ *Sexually exploited and trafficked minors.*

Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in certain cases, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would provide that a minor may come within the jurisdiction of the juvenile court and become a dependent child of the court if the minor is a victim of human trafficking, or was paid to perform sexual acts, and no specialized program exists to refer the minor to receive services, or if the minor has solicited, agreed to engage in, or engaged in an act of prostitution.

This bill would enact the State Plan to Serve and Protect Sexually Exploited and Trafficked Minors, and would require the California Health and Human Services Agency to, no later than January 30, 2014, convene an interagency workgroup, as prescribed, to develop the plan

and require the workgroup to submit the plan to the Legislature, Judicial Council, and Governor, no later than January 30, 2015.

Existing law establishes the California Child Welfare Council, which serves as the advisory body responsible for improving the collaboration and processes of the multiple agencies and courts that serve children and youth in the child welfare and foster care systems.

This bill would require the California Child Welfare Council to provide recommendations and updates to the State Plan to Serve and Protect Sexually Exploited and Trafficked Minors.

Existing law, the California Community Care Facilities Act, requires the State Department of Social Services to license and regulate community care facilities, including foster family agencies and other facilities that provide foster care services for children. Existing law requires the department to develop, and an administrator of a group home facility to complete, a certification program that includes training in various areas. Existing law requires a foster family agency to provide, and a licensed foster parent to complete, prescribed preplacement training and additional annual training. Existing law requires a community college district with a foster care education program to make orientation and training available to a relative or nonrelative extended family member caregiver, as specified.

The bill would require the training for an administrator of a group home facility, licensed foster parent, and relative or nonrelative extended family member caregiver to include instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to a sexually exploited and trafficked minor in out-of-home care. By expanding the duties of community college districts, this bill would impose a state-mandated local program.

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.

Existing law authorizes the expungement of arrest records and records of convictions under specified circumstances if certain criteria are met.

This bill would express the intent of the Legislature to enact legislation authorizing human trafficking victims who suffered arrest or conviction

for prostitution as a minor to have those records expunged upon reaching the age of majority, as appropriate.

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

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

1 SECTION 1. Section 1522.41 of the Health and Safety Code
2 is amended to read:

3 1522.41. (a) The director, in consultation and collaboration
4 with county placement officials, group home provider
5 organizations, the Director of Health Care Services, and the
6 Director of Developmental Services, shall develop and establish
7 a certification program to ensure that administrators of group home
8 facilities have appropriate training to provide the care and services
9 for which a license or certificate is issued.

10 (b) (1) In addition to any other requirements or qualifications
11 required by the department, an administrator of a group home
12 facility shall successfully complete a department-approved
13 certification program, pursuant to subdivision (c), prior to
14 employment. An administrator employed in a group home on the
15 effective date of this section shall meet the requirements of
16 paragraph (2) of subdivision (c).

17 (2) In those cases where the individual is both the licensee and
18 the administrator of a facility, the individual shall comply with all
19 of the licensee and administrator requirements of this section.

20 (3) Failure to comply with this section shall constitute cause for
21 revocation of the license of the facility.

22 (4) The licensee shall notify the department within 10 days of
23 any change in administrators.

24 (c) (1) The administrator certification programs shall require
25 a minimum of 40 hours of classroom instruction that provides
26 training on a uniform core of knowledge in each of the following
27 areas:

28 (A) Laws, regulations, and policies and procedural standards
29 that impact the operations of the type of facility for which the
30 applicant will be an administrator.

31 (B) Business operations.

32 (C) Management and supervision of staff.

33 (D) Psychosocial and educational needs of the facility residents.

1 (E) Community and support services.

2 (F) Physical needs for facility residents.

3 (G) Administration, storage, misuse, and interaction of
4 medication used by facility residents.

5 (H) Resident admission, retention, and assessment procedures,
6 including the right of a foster child to have fair and equal access
7 to all available services, placement, care, treatment, and benefits,
8 and to not be subjected to discrimination or harassment on the
9 basis of actual or perceived race, ethnic group identification,
10 ancestry, national origin, color, religion, sex, sexual orientation,
11 gender identity, mental or physical disability, or HIV status.

12 (I) Instruction on cultural competency and sensitivity relating
13 to, and best practices for, providing adequate care to lesbian, gay,
14 bisexual, and transgender youth in out-of-home care.

15 (J) *Instruction on cultural competency and sensitivity relating*
16 *to, and best practices for, providing adequate care to a sexually*
17 *exploited and trafficked minor in out-of-home care.*

18 ~~(J)~~

19 (K) Nonviolent emergency intervention and reporting
20 requirements.

21 ~~(K)~~

22 (L) Basic instruction on the existing laws and procedures
23 regarding the safety of foster youth at school and the ensuring of
24 a harassment- and violence-free school environment contained in
25 the School Safety and Violence Prevention Act (Article 3.6
26 commencing with Section 32228) of Chapter 2 of Part 19 of
27 Division 1 of Title 1 of the Education Code).

28 (2) The department shall adopt separate program requirements
29 for initial certification for persons who are employed as group
30 home administrators on the effective date of this section. A person
31 employed as an administrator of a group home facility on the
32 effective date of this section shall obtain a certificate by completing
33 the training and testing requirements imposed by the department
34 within 12 months of the effective date of the regulations
35 implementing this section. After the effective date of this section,
36 these administrators shall meet the requirements imposed by the
37 department on all other group home administrators for certificate
38 renewal.

39 (3) Individuals applying for certification under this section shall
40 successfully complete an approved certification program, pass a

1 written test administered by the department within 60 days of
2 completing the program, and submit to the department the
3 documentation required by subdivision (d) within 30 days after
4 being notified of having passed the test. The department may
5 extend these time deadlines for good cause. The department shall
6 notify the applicant of his or her test results within 30 days of
7 administering the test.

8 (d) The department shall not begin the process of issuing a
9 certificate until receipt of all of the following:

10 (1) A certificate of completion of the administrator training
11 required pursuant to this chapter.

12 (2) The fee required for issuance of the certificate. A fee of one
13 hundred dollars (\$100) shall be charged by the department to cover
14 the costs of processing the application for certification.

15 (3) Documentation from the applicant that he or she has passed
16 the written test.

17 (4) Submission of fingerprints pursuant to Section 1522. The
18 department may waive the submission for those persons who have
19 a current clearance on file.

20 (5) That person is at least 21 years of age.

21 (e) It shall be unlawful for any person not certified under this
22 section to hold himself or herself out as a certified administrator
23 of a group home facility. Any person willfully making any false
24 representation as being a certified administrator or facility manager
25 is guilty of a misdemeanor.

26 (f) (1) Certificates issued under this section shall be renewed
27 every two years and renewal shall be conditional upon the
28 certificate holder submitting documentation of completion of 40
29 hours of continuing education related to the core of knowledge
30 specified in subdivision (c). No more than one-half of the required
31 40 hours of continuing education necessary to renew the certificate
32 may be satisfied through online courses. All other continuing
33 education hours shall be completed in a classroom setting. For
34 purposes of this section, an individual who is a group home facility
35 administrator and who is required to complete the continuing
36 education hours required by the regulations of the State Department
37 of Developmental Services, and approved by the regional center,
38 may have up to 24 of the required continuing education course
39 hours credited toward the 40-hour continuing education
40 requirement of this section. Community college course hours

1 approved by the regional centers shall be accepted by the
2 department for certification.

3 (2) Every administrator of a group home facility shall complete
4 the continuing education requirements of this subdivision.

5 (3) Certificates issued under this section shall expire every two
6 years on the anniversary date of the initial issuance of the
7 certificate, except that any administrator receiving his or her initial
8 certification on or after July 1, 1999, shall make an irrevocable
9 election to have his or her recertification date for any subsequent
10 recertification either on the date two years from the date of issuance
11 of the certificate or on the individual's birthday during the second
12 calendar year following certification. The department shall send
13 a renewal notice to the certificate holder 90 days prior to the
14 expiration date of the certificate. If the certificate is not renewed
15 prior to its expiration date, reinstatement shall only be permitted
16 after the certificate holder has paid a delinquency fee equal to three
17 times the renewal fee and has provided evidence of completion of
18 the continuing education required.

19 (4) To renew a certificate, the certificate holder shall, on or
20 before the certificate expiration date, request renewal by submitting
21 to the department documentation of completion of the required
22 continuing education courses and pay the renewal fee of one
23 hundred dollars (\$100), irrespective of receipt of the department's
24 notification of the renewal. A renewal request postmarked on or
25 before the expiration of the certificate shall be proof of compliance
26 with this paragraph.

27 (5) A suspended or revoked certificate shall be subject to
28 expiration as provided for in this section. If reinstatement of the
29 certificate is approved by the department, the certificate holder,
30 as a condition precedent to reinstatement, shall submit proof of
31 compliance with paragraphs (1) and (2) of subdivision (f), and
32 shall pay a fee in an amount equal to the renewal fee, plus the
33 delinquency fee, if any, accrued at the time of its revocation or
34 suspension. Delinquency fees, if any, accrued subsequent to the
35 time of its revocation or suspension and prior to an order for
36 reinstatement, shall be waived for a period of 12 months to allow
37 the individual sufficient time to complete the required continuing
38 education units and to submit the required documentation.
39 Individuals whose certificates will expire within 90 days after the
40 order for reinstatement may be granted a three-month extension

1 to renew their certificates during which time the delinquency fees
2 shall not accrue.

3 (6) A certificate that is not renewed within four years after its
4 expiration shall not be renewed, restored, reissued, or reinstated
5 except upon completion of a certification training program, passing
6 any test that may be required of an applicant for a new certificate
7 at that time, and paying the appropriate fees provided for in this
8 section.

9 (7) A fee of twenty-five dollars (\$25) shall be charged for the
10 reissuance of a lost certificate.

11 (8) A certificate holder shall inform the department of his or
12 her employment status and change of mailing address within 30
13 days of any change.

14 (g) Unless otherwise ordered by the department, the certificate
15 shall be considered forfeited under either of the following
16 conditions:

17 (1) The department has revoked any license held by the
18 administrator after the department issued the certificate.

19 (2) The department has issued an exclusion order against the
20 administrator pursuant to Section 1558, 1568.092, 1569.58, or
21 1596.8897, after the department issued the certificate, and the
22 administrator did not appeal the exclusion order or, after the appeal,
23 the department issued a decision and order that upheld the
24 exclusion order.

25 (h) (1) The department, in consultation and collaboration with
26 county placement officials, provider organizations, the State
27 Department of Health Care Services, and the State Department of
28 Developmental Services, shall establish, by regulation, the program
29 content, the testing instrument, the process for approving
30 certification training programs, and criteria to be used in
31 authorizing individuals, organizations, or educational institutions
32 to conduct certification training programs and continuing education
33 courses. The department may also grant continuing education hours
34 for continuing courses offered by accredited educational institutions
35 that are consistent with the requirements in this section. The
36 department may deny vendor approval to any agency or person in
37 any of the following circumstances:

38 (A) The applicant has not provided the department with evidence
39 satisfactory to the department of the ability of the applicant to

1 satisfy the requirements of vendorization set out in the regulations
2 adopted by the department pursuant to subdivision (j).

3 (B) The applicant person or agency has a conflict of interest in
4 that the person or agency places its clients in group home facilities.

5 (C) The applicant public or private agency has a conflict of
6 interest in that the agency is mandated to place clients in group
7 homes and to pay directly for the services. The department may
8 deny vendorization to this type of agency only as long as there are
9 other vendor programs available to conduct the certification
10 training programs and conduct education courses.

11 (2) The department may authorize vendors to conduct the
12 administrator's certification training program pursuant to this
13 section. The department shall conduct the written test pursuant to
14 regulations adopted by the department.

15 (3) The department shall prepare and maintain an updated list
16 of approved training vendors.

17 (4) The department may inspect certification training programs
18 and continuing education courses, including online courses, at no
19 charge to the department, to determine if content and teaching
20 methods comply with regulations. If the department determines
21 that any vendor is not complying with the requirements of this
22 section, the department shall take appropriate action to bring the
23 program into compliance, which may include removing the vendor
24 from the approved list.

25 (5) The department shall establish reasonable procedures and
26 timeframes not to exceed 30 days for the approval of vendor
27 training programs.

28 (6) The department may charge a reasonable fee, not to exceed
29 one hundred fifty dollars (\$150) every two years, to certification
30 program vendors for review and approval of the initial 40-hour
31 training program pursuant to subdivision (c). The department may
32 also charge the vendor a fee, not to exceed one hundred dollars
33 (\$100) every two years, for the review and approval of the
34 continuing education courses needed for recertification pursuant
35 to this subdivision.

36 (7) (A) A vendor of online programs for continuing education
37 shall ensure that each online course contains all of the following:

38 (i) An interactive portion in which the participant receives
39 feedback, through online communication, based on input from the
40 participant.

1 (ii) Required use of a personal identification number or personal
2 identification information to confirm the identity of the participant.

3 (iii) A final screen displaying a printable statement, to be signed
4 by the participant, certifying that the identified participant
5 completed the course. The vendor shall obtain a copy of the final
6 screen statement with the original signature of the participant prior
7 to the issuance of a certificate of completion. The signed statement
8 of completion shall be maintained by the vendor for a period of
9 three years and be available to the department upon demand. Any
10 person who certifies as true any material matter pursuant to this
11 clause that he or she knows to be false is guilty of a misdemeanor.

12 (B) Nothing in this subdivision shall prohibit the department
13 from approving online programs for continuing education that do
14 not meet the requirements of subparagraph (A) if the vendor
15 demonstrates to the department's satisfaction that, through
16 advanced technology, the course and the course delivery meet the
17 requirements of this section.

18 (i) The department shall establish a registry for holders of
19 certificates that shall include, at a minimum, information on
20 employment status and criminal record clearance.

21 (j) Subdivisions (b) to (i), inclusive, shall be implemented upon
22 regulations being adopted by the department, by January 1, 2000.

23 (k) Notwithstanding any provision of law to the contrary,
24 vendors approved by the department who exclusively provide
25 either initial or continuing education courses for certification of
26 administrators of a group home facility as defined by regulations
27 of the department, an adult residential facility as defined by
28 regulations of the department, or a residential care facility for the
29 elderly as defined in subdivision (k) of Section 1569.2, shall be
30 regulated solely by the department pursuant to this chapter. No
31 other state or local governmental entity shall be responsible for
32 regulating the activity of those vendors.

33 *SEC. 2. Section 1529.2 of the Health and Safety Code is*
34 *amended to read:*

35 1529.2. (a) In addition to the foster parent training provided
36 by community colleges, foster family agencies shall provide a
37 program of training for their certified foster families.

38 (b) (1) Every licensed foster parent shall complete a minimum
39 of 12 hours of foster parent training, as prescribed in paragraph
40 (3), before the placement of any foster children with the foster

1 parent. In addition, a foster parent shall complete a minimum of
2 eight hours of foster parent training annually, as prescribed in
3 paragraph (4). No child shall be placed in a foster family home
4 unless these requirements are met by the persons in the home who
5 are serving as the foster parents.

6 (2) (A) Upon the request of the foster parent for a hardship
7 waiver from the postplacement training requirement or a request
8 for an extension of the deadline, the county may, at its option, on
9 a case-by-case basis, waive the postplacement training requirement
10 or extend any established deadline for a period not to exceed one
11 year, if the postplacement training requirement presents a severe
12 and unavoidable obstacle to continuing as a foster parent. Obstacles
13 for which a county may grant a hardship waiver or extension are:

14 (i) Lack of access to training due to the cost or travel required.

15 (ii) Family emergency.

16 (B) Before a waiver or extension may be granted, the foster
17 parent should explore the opportunity of receiving training by
18 video or written materials.

19 (3) The initial preplacement training shall include, but not be
20 limited to, training courses that cover all of the following:

21 (A) An overview of the child protective system.

22 (B) The effects of child abuse and neglect on child development.

23 (C) Positive discipline and the importance of self-esteem.

24 (D) Health issues in foster care.

25 (E) Accessing education and health services available to foster
26 children.

27 (F) The right of a foster child to have fair and equal access to
28 all available services, placement, care, treatment, and benefits, and
29 to not be subjected to discrimination or harassment on the basis
30 of actual or perceived race, ethnic group identification, ancestry,
31 national origin, color, religion, sex, sexual orientation, gender
32 identity, mental or physical disability, or HIV status.

33 (G) Instruction on cultural competency and sensitivity relating
34 to, and best practices for, providing adequate care to lesbian, gay,
35 bisexual, and transgender youth in out-of-home care.

36 (H) *Instruction on cultural competency and sensitivity relating*
37 *to, and best practices for, providing adequate care to a sexually*
38 *exploited and trafficked minor in out-of-home care.*

39 (H)

1 (I) Basic instruction on the existing laws and procedures
2 regarding the safety of foster youth at school and the ensuring of
3 a harassment and violence free school environment contained in
4 the California Student Safety and Violence Prevention Act of 2000
5 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
6 Part 19 of Division 1 of Title 1 of the Education Code).

7 (4) The postplacement annual training shall include, but not be
8 limited to, training courses that cover all of the following:

9 (A) Age-appropriate child development.

10 (B) Health issues in foster care.

11 (C) Positive discipline and the importance of self-esteem.

12 (D) Emancipation and independent living skills if a foster parent
13 is caring for youth.

14 (E) The right of a foster child to have fair and equal access to
15 all available services, placement, care, treatment, and benefits, and
16 to not be subjected to discrimination or harassment on the basis
17 of actual or perceived race, ethnic group identification, ancestry,
18 national origin, color, religion, sex, sexual orientation, gender
19 identity, mental or physical disability, or HIV status.

20 (F) Instruction on cultural competency and sensitivity relating
21 to, and best practices for, providing adequate care to lesbian, gay,
22 bisexual, and transgender youth in out-of-home care.

23 (G) *Instruction on cultural competency and sensitivity relating*
24 *to, and best practices for, providing adequate care to a sexually*
25 *exploited and trafficked minor in out-of-home care.*

26 (5) Foster parent training may be attained through a variety of
27 sources, including community colleges, counties, hospitals, foster
28 parent associations, the California State Foster Parent Association's
29 Conference, adult schools, and certified foster parent instructors.

30 (6) A candidate for placement of foster children shall submit a
31 certificate of training to document completion of the training
32 requirements. The certificate shall be submitted with the initial
33 consideration for placements and provided at the time of the annual
34 visit by the licensing agency thereafter.

35 (c) Nothing in this section shall preclude a county from requiring
36 county-provided preplacement or postplacement foster parent
37 training in excess of the requirements in this section.

38 *SEC. 3. Section 300 of the Welfare and Institutions Code is*
39 *amended to read:*

1 300. Any child who comes within any of the following
2 descriptions is within the jurisdiction of the juvenile court which
3 may adjudge that person to be a dependent child of the court:

4 (a) The child has suffered, or there is a substantial risk that the
5 child will suffer, serious physical harm inflicted nonaccidentally
6 upon the child by the child's parent or guardian. For the purposes
7 of this subdivision, a court may find there is a substantial risk of
8 serious future injury based on the manner in which a less serious
9 injury was inflicted, a history of repeated inflictions of injuries on
10 the child or the child's siblings, or a combination of these and other
11 actions by the parent or guardian which indicate the child is at risk
12 of serious physical harm. For purposes of this subdivision, "serious
13 physical harm" does not include reasonable and age-appropriate
14 spanking to the buttocks where there is no evidence of serious
15 physical injury.

16 (b) The child has suffered, or there is a substantial risk that the
17 child will suffer, serious physical harm or illness, as a result of the
18 failure or inability of his or her parent or guardian to adequately
19 supervise or protect the child, or the willful or negligent failure of
20 the child's parent or guardian to adequately supervise or protect
21 the child from the conduct of the custodian with whom the child
22 has been left, or by the willful or negligent failure of the parent or
23 guardian to provide the child with adequate food, clothing, shelter,
24 or medical treatment, or by the inability of the parent or guardian
25 to provide regular care for the child due to the parent's or
26 guardian's mental illness, developmental disability, or substance
27 abuse. No child shall be found to be a person described by this
28 subdivision solely due to the lack of an emergency shelter for the
29 family. Whenever it is alleged that a child comes within the
30 jurisdiction of the court on the basis of the parent's or guardian's
31 willful failure to provide adequate medical treatment or specific
32 decision to provide spiritual treatment through prayer, the court
33 shall give deference to the parent's or guardian's medical treatment,
34 nontreatment, or spiritual treatment through prayer alone in
35 accordance with the tenets and practices of a recognized church
36 or religious denomination, by an accredited practitioner thereof,
37 and shall not assume jurisdiction unless necessary to protect the
38 child from suffering serious physical harm or illness. In making
39 its determination, the court shall consider (1) the nature of the
40 treatment proposed by the parent or guardian, (2) the risks to the

1 child posed by the course of treatment or nontreatment proposed
2 by the parent or guardian, (3) the risk, if any, of the course of
3 treatment being proposed by the petitioning agency, and (4) the
4 likely success of the courses of treatment or nontreatment proposed
5 by the parent or guardian and agency. The child shall continue to
6 be a dependent child pursuant to this subdivision only so long as
7 is necessary to protect the child from risk of suffering serious
8 physical harm or illness.

9 (c) The child is suffering serious emotional damage, or is at
10 substantial risk of suffering serious emotional damage, evidenced
11 by severe anxiety, depression, withdrawal, or untoward aggressive
12 behavior toward self or others, as a result of the conduct of the
13 parent or guardian or who has no parent or guardian capable of
14 providing appropriate care. No child shall be found to be a person
15 described by this subdivision if the willful failure of the parent or
16 guardian to provide adequate mental health treatment is based on
17 a sincerely held religious belief and if a less intrusive judicial
18 intervention is available.

19 (d) The child has been sexually abused, or there is a substantial
20 risk that the child will be sexually abused, as defined in Section
21 11165.1 of the Penal Code, by his or her parent or guardian or a
22 member of his or her household, or the parent or guardian has
23 failed to adequately protect the child from sexual abuse when the
24 parent or guardian knew or reasonably should have known that
25 the child was in danger of sexual abuse.

26 (e) The child is under the age of five years and has suffered
27 severe physical abuse by a parent, or by any person known by the
28 parent, if the parent knew or reasonably should have known that
29 the person was physically abusing the child. For the purposes of
30 this subdivision, “severe physical abuse” means any of the
31 following: any single act of abuse which causes physical trauma
32 of sufficient severity that, if left untreated, would cause permanent
33 physical disfigurement, permanent physical disability, or death;
34 any single act of sexual abuse which causes significant bleeding,
35 deep bruising, or significant external or internal swelling; or more
36 than one act of physical abuse, each of which causes bleeding,
37 deep bruising, significant external or internal swelling, bone
38 fracture, or unconsciousness; or the willful, prolonged failure to
39 provide adequate food. A child may not be removed from the
40 physical custody of his or her parent or guardian on the basis of a

1 finding of severe physical abuse unless the social worker has made
2 an allegation of severe physical abuse pursuant to Section 332.

3 (f) The child's parent or guardian caused the death of another
4 child through abuse or neglect.

5 (g) The child has been left without any provision for support;
6 physical custody of the child has been voluntarily surrendered
7 pursuant to Section 1255.7 of the Health and Safety Code and the
8 child has not been reclaimed within the 14-day period specified
9 in subdivision ~~(e)~~ (g) of that section; the child's parent has been
10 incarcerated or institutionalized and cannot arrange for the care of
11 the child; or a relative or other adult custodian with whom the child
12 resides or has been left is unwilling or unable to provide care or
13 support for the child, the whereabouts of the parent are unknown,
14 and reasonable efforts to locate the parent have been unsuccessful.

15 (h) The child has been freed for adoption by one or both parents
16 for 12 months by either relinquishment or termination of parental
17 rights or an adoption petition has not been granted.

18 (i) The child has been subjected to an act or acts of cruelty by
19 the parent or guardian or a member of his or her household, or the
20 parent or guardian has failed to adequately protect the child from
21 an act or acts of cruelty when the parent or guardian knew or
22 reasonably should have known that the child was in danger of
23 being subjected to an act or acts of cruelty.

24 (j) The child's sibling has been abused or neglected, as defined
25 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
26 that the child will be abused or neglected, as defined in those
27 subdivisions. The court shall consider the circumstances
28 surrounding the abuse or neglect of the sibling, the age and gender
29 of each child, the nature of the abuse or neglect of the sibling, the
30 mental condition of the parent or guardian, and any other factors
31 the court considers probative in determining whether there is a
32 substantial risk to the child.

33 (k) *The child is a victim of human trafficking, as described in*
34 *Section 236.1 of the Penal Code, or is paid to perform sexual acts*
35 *described in Section 11165.1 of the Penal Code, and no specialized*
36 *program exists to refer the child to receive services as a victim of*
37 *human trafficking or sexual exploitation.*

38 (l) *The child has solicited, agreed to engage in, or engaged in*
39 *any act of prostitution prohibited by Section 647 of the Penal Code.*

1 It is the intent of the Legislature that nothing in this section
2 disrupt the family unnecessarily or intrude inappropriately into
3 family life, prohibit the use of reasonable methods of parental
4 discipline, or prescribe a particular method of parenting. Further,
5 nothing in this section is intended to limit the offering of voluntary
6 services to those families in need of assistance but who do not
7 come within the descriptions of this section. To the extent that
8 savings accrue to the state from child welfare services funding
9 obtained as a result of the enactment of the act that enacted this
10 section, those savings shall be used to promote services which
11 support family maintenance and family reunification plans, such
12 as client transportation, out-of-home respite care, parenting
13 training, and the provision of temporary or emergency in-home
14 caretakers and persons teaching and demonstrating homemaking
15 skills. The Legislature further declares that a physical disability,
16 such as blindness or deafness, is no bar to the raising of happy and
17 well-adjusted children and that a court's determination pursuant
18 to this section shall center upon whether a parent's disability
19 prevents him or her from exercising care and control. The
20 Legislature further declares that a child whose parent has been
21 adjudged a dependent child of the court pursuant to this section
22 shall not be considered to be at risk of abuse or neglect solely
23 because of the age, dependent status, or foster care status of the
24 parent.

25 As used in this section, "guardian" means the legal guardian of
26 the child.

27 *SEC. 4. Chapter 4 (commencing with Section 2200) is added*
28 *to Division 2.5 of the Welfare and Institutions Code, to read:*

29

30 *CHAPTER 4. STATE PLAN TO SERVE AND PROTECT SEXUALLY*
31 *EXPLOITED AND TRAFFICKED MINORS*

32

33 *2200. This chapter shall be known, and may be cited, as the*
34 *State Plan to Serve and Protect Sexually Exploited and Trafficked*
35 *Minors.*

36 *2201. (a) The purpose of this chapter is to establish the*
37 *framework for a coordinated effort and plan to serve and protect*
38 *sexually exploited and trafficked minors.*

39 *(b) The California Health and Human Services Agency shall,*
40 *no later than January 30, 2014, convene an interagency*

1 workgroup, in accordance with Section 2202, in consultation with
2 the California Child Welfare Council created by Section 16540,
3 for this purpose.

4 (c) For purposes of this chapter, “child trafficking victim”
5 means an individual under 18 years of age who meets any of the
6 following conditions:

7 (1) Is a victim of human trafficking, as defined in Section 236.1
8 of the Penal Code.

9 (2) Is involved in prostitution, pornography, or stripping.

10 (3) Is engaged in survival sex, which is the exchange of sex for
11 money or other consideration, including food or shelter, in order
12 to ensure his or her survival.

13 2202. (a) The interagency workgroup shall be comprised of
14 the State Department of Health Care Services, the Children and
15 Family Services Division of the State Department of Social
16 Services, the Division of Juvenile Justice in the Department of
17 Corrections and Rehabilitation and the State Department of
18 Education, and shall include a broad spectrum of stakeholders
19 who are responsible for addressing the needs of this population,
20 including, but not limited to, local government agencies, human
21 trafficking service providers, the California Mental Health
22 Directors Association, county probation officers, the County
23 Welfare Directors Association, youth advocates, court
24 representatives, and human trafficking survivors.

25 (b) The workgroup shall conduct a thorough review of existing
26 programs and services for child trafficking victims to identify areas
27 of need. The workgroup shall develop strategies and
28 recommendations for policies, interagency response protocols,
29 and services that will ensure that child trafficking victims have
30 access to the services and supports needed for their safety and
31 recovery.

32 (c) The workgroup shall develop a comprehensive state plan to
33 serve and protect sexually exploited and trafficked minors,
34 including recommendations and a timeline for implementation.
35 The plan shall include, at a minimum, all of the following:

36 (1) An evaluation of juvenile court jurisdiction pertaining to
37 child trafficking, including the adequacy of existing jurisdictional
38 statuses under Sections 241.1, 300, 601, and 602, and
39 recommendations for necessary changes.

1 (2) A multiagency-coordinated child trafficking response
2 protocol and guidelines for local implementation that addresses
3 identification, screening, assessment, immediate and safe shelter,
4 and clear lines of ongoing responsibility to ensure that child
5 trafficking victims have access to the necessary continuum of
6 treatment options, as determined by the workgroup.

7 (3) If new specialized services and programs are needed to
8 ensure that child trafficking victims have access to safe and
9 appropriate services, the identification of funding sources and a
10 timeline for the creation of those services and programs.

11 (4) The identification of training needs for child welfare staff,
12 law enforcement, and probation staff on child trafficking response
13 protocols, and a plan and timeline to implement necessary training.

14 (5) The development of data collection and sharing protocols
15 among agencies.

16 (d) In developing the plan, the workgroup shall consider the
17 following:

18 (1) Existing laws and practices in other states and jurisdictions
19 that have developed response protocols and policies to respond
20 to sexual exploitation of minors and child trafficking, and the
21 outcomes and unintended consequences of those protocols and
22 policies.

23 (2) The adequacy of existing response protocols and services,
24 including identification, screening, assessment, immediate and
25 safe shelter, and the range of treatment options for child trafficking
26 victims.

27 (e) The workgroup, in collaboration with the Child Welfare
28 Council, shall submit the plan, including implementation
29 recommendations and a timeline, to the Legislature, Judicial
30 Council, and the Governor, no later than January 30, 2015.

31 SEC. 5. Section 16003 of the Welfare and Institutions Code is
32 amended to read:

33 16003. (a) In order to promote the successful implementation
34 of the statutory preference for foster care placement with a relative
35 caretaker as set forth in Section 7950 of the Family Code, each
36 community college district with a foster care education program
37 shall make available orientation and training to the relative or
38 nonrelative extended family member caregiver into whose care
39 the county has placed a foster child pursuant to Section 1529.2 of

1 the Health and Safety Code, including, but not limited to, courses
2 that cover the following:

3 (1) The role, rights, and responsibilities of a relative or
4 nonrelative extended family member caregiver caring for a child
5 in foster care, including the right of a foster child to have fair and
6 equal access to all available services, placement, care, treatment,
7 and benefits, and to not be subjected to discrimination or
8 harassment on the basis of actual or perceived race, ethnic group
9 identification, ancestry, national origin, color, religion, sex, sexual
10 orientation, gender identity, mental or physical disability, or HIV
11 status.

12 (2) An overview of the child protective system.

13 (3) The effects of child abuse and neglect on child development.

14 (4) Positive discipline and the importance of self-esteem.

15 (5) Health issues in foster care.

16 (6) Accessing education and health services that are available
17 to foster children.

18 (7) Relationship and safety issues regarding contact with one
19 or both of the birth parents.

20 (8) Permanency options for relative or nonrelative extended
21 family member caregivers, including legal guardianship, the
22 Kinship Guardianship Assistance Payment Program, and kin
23 adoption.

24 (9) Information on resources available for those who meet
25 eligibility criteria, including out-of-home care payments, the
26 Medi-Cal program, in-home supportive services, and other similar
27 resources.

28 (10) Instruction on cultural competency and sensitivity relating
29 to, and best practices for, providing adequate care to lesbian, gay,
30 bisexual, and transgender youth in out-of-home care.

31 *(11) Instruction on cultural competency and sensitivity relating*
32 *to, and best practices for, providing adequate care to a sexually*
33 *exploited and trafficked minor in out-of-home care.*

34 ~~(11)~~

35 (12) Basic instruction on the existing laws and procedures
36 regarding the safety of foster youth at school and the ensuring of
37 a harassment and violence free school environment contained in
38 the California Student Safety and Violence Prevention Act of 2000
39 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
40 Part 19 of Division 1 of Title 1 of the Education Code).

1 (b) In addition to training made available pursuant to subdivision
2 (a), each community college district with a foster care education
3 program shall make training available to a relative or nonrelative
4 extended family member caregiver that includes, but need not be
5 limited to, courses that cover all of the following:

- 6 (1) Age-appropriate child development.
- 7 (2) Health issues in foster care.
- 8 (3) Positive discipline and the importance of self-esteem.
- 9 (4) Emancipation and independent living.
- 10 (5) Accessing education and health services available to foster
11 children.
- 12 (6) Relationship and safety issues regarding contact with one
13 or both of the birth parents.
- 14 (7) Permanency options for relative or nonrelative extended
15 family member caregivers, including legal guardianship, the
16 Kinship Guardianship Assistance Payment Program, and kin
17 adoption.
- 18 (8) Basic instruction on the existing laws and procedures
19 regarding the safety of foster youth at school and the ensuring of
20 a harassment and violence free school environment contained in
21 the California Student Safety and Violence Prevention Act of 2000
22 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
23 Part 19 of Division 1 of Title 1 of the Education Code).

24 (c) In addition to the requirements of subdivisions (a) and (b),
25 each community college district with a foster care education
26 program, in providing the orientation program, shall develop
27 appropriate program parameters in collaboration with the counties.

28 (d) Each community college district with a foster care education
29 program shall make every attempt to make the training and
30 orientation programs for relative or nonrelative extended family
31 member caregivers highly accessible in the communities in which
32 they reside.

33 (e) When a child is placed with a relative or nonrelative extended
34 family member caregiver, the county shall inform the caregiver
35 of the availability of training and orientation programs and it is
36 the intent of the Legislature that the county shall forward the names
37 and addresses of relative or nonrelative extended family member
38 caregivers to the appropriate community colleges providing the
39 training and orientation programs.

1 (f) This section shall not be construed to preclude counties from
2 developing or expanding existing training and orientation programs
3 for foster care providers to include relative or nonrelative extended
4 family member caregivers.

5 *SEC. 6. Section 16540 of the Welfare and Institutions Code is*
6 *amended to read:*

7 16540. The California Child Welfare Council is hereby
8 established, which shall serve as an advisory body responsible for
9 improving the collaboration and processes of the multiple agencies
10 and the courts that serve the children and youth in the child welfare
11 and foster care systems. The council shall monitor and report the
12 extent to which child welfare and foster care programs and the
13 courts are responsive to the needs of children in their joint care.
14 The council shall issue advisory reports whenever it deems
15 appropriate, but in any event, no less frequently than annually, to
16 the Governor, the Legislature, the Judicial Council, and the public.
17 A report of the Child Welfare Council shall, at a minimum, include
18 recommendations for all of the following:

19 (a) Ensuring that all state child welfare, foster care, and judicial
20 funding and services for children, youth, and families is, to the
21 greatest extent possible, coordinated to eliminate fragmentation
22 and duplication of services provided to children or families who
23 would benefit from integrated multiagency services.

24 (b) Increasing the quality, appropriateness, and effectiveness
25 of program services and judicial processes delivered to children,
26 youth, and families who would benefit from integrated multiagency
27 services to achieve better outcomes for these children, youth, and
28 families.

29 (c) Promoting consistent program and judicial excellence across
30 counties to the greatest extent possible while recognizing the
31 demographic, geographic, and financial differences among the
32 counties.

33 (d) Increasing collaboration and coordination between county
34 agencies, state agencies, federal agencies, and the courts.

35 (e) Ensuring that all state Title IV-E plans, program
36 improvement plans, and court improvement plans demonstrate
37 effective collaboration between public agencies and the courts.

38 (f) Assisting the Secretary of California Health and Human
39 Services and the chief justice in formulating policies for the

1 effective administration of the child welfare and foster care
2 programs and judicial processes.

3 (g) Modifying program practices and court processes, rate
4 structures, and other system changes needed to promote and support
5 relative caregivers, family foster parents, therapeutic placements,
6 and other placements for children who cannot remain in the family
7 home.

8 (h) Developing data- and information-sharing agreements and
9 protocols for the exchange of aggregate data across program and
10 court systems that are providing services to children and families
11 in the child welfare system. These data-sharing agreements shall
12 allow child welfare agencies and the courts to access data
13 concerning the health, mental health, special education, and
14 educational status and progress of children served by county child
15 welfare systems subject to state and federal confidentiality laws
16 and regulations. They shall be developed in tandem with the
17 establishment of judicial case management systems as well as
18 additional or enhanced performance measures described in
19 subdivision (b) of Section 16544.

20 (i) Developing systematic methods for obtaining policy
21 recommendations from foster youth about the effectiveness and
22 quality of program services and judicial processes, and ensuring
23 that the interests of foster youth are adequately addressed in all
24 policy development.

25 (j) Implementing legislative enactments in the child welfare and
26 foster care programs and the courts, and reporting to the Legislature
27 on the timeliness and consistency of the implementation.

28 (k) Monitoring the adequacy of resources necessary for the
29 implementation of existing programs and court processes, and the
30 prioritization of program and judicial responsibilities.

31 (l) Strengthening and increasing the independence and authority
32 of the foster care ombudsperson.

33 (m) Coordinating available services for former foster youth and
34 improving outreach efforts to those youth and their families.

35 (n) *Providing recommendations and updates to the State Plan*
36 *to Serve and Protect Sexually Exploited and Trafficked Minors,*
37 *as described in Chapter 4 (commencing with Section 2200) of*
38 *Division 2.5.*

39 *SEC. 7. If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*
2 *pursuant to Part 7 (commencing with Section 17500) of Division*
3 *4 of Title 2 of the Government Code.*

4 ~~SECTION 1. It is the intent of the Legislature to enact~~
5 ~~legislation authorizing human trafficking victims who suffered~~
6 ~~arrest or conviction for prostitution as a minor to have those records~~
7 ~~expunged upon reaching the age of majority, as appropriate.~~

O