

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 738

Introduced by Senator Yee

February 22, 2013

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. 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 sexual exploitation*, or *received food or shelter in exchange for*, 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~~ *the parent or guardian failed or was unable to protect the child.*

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.

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

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

1 SECTION 1. Section 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.

34 (E) Community and support services.

35 (F) Physical needs for facility residents.

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

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

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

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

14 (K) Nonviolent emergency intervention and reporting
15 requirements.

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

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

33 (3) Individuals applying for certification under this section shall
34 successfully complete an approved certification program, pass a
35 written test administered by the department within 60 days of
36 completing the program, and submit to the department the
37 documentation required by subdivision (d) within 30 days after
38 being notified of having passed the test. The department may
39 extend these time deadlines for good cause. The department shall

1 notify the applicant of his or her test results within 30 days of
2 administering the test.

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

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

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

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

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

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

16 (e) It shall be unlawful for any person not certified under this
17 section to hold himself or herself out as a certified administrator
18 of a group home facility. Any person willfully making any false
19 representation as being a certified administrator or facility manager
20 is guilty of a misdemeanor.

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

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

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

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

23 (5) A suspended or revoked certificate shall be subject to
24 expiration as provided for in this section. If reinstatement of the
25 certificate is approved by the department, the certificate holder,
26 as a condition precedent to reinstatement, shall submit proof of
27 compliance with paragraphs (1) and (2) of subdivision (f), and
28 shall pay a fee in an amount equal to the renewal fee, plus the
29 delinquency fee, if any, accrued at the time of its revocation or
30 suspension. Delinquency fees, if any, accrued subsequent to the
31 time of its revocation or suspension and prior to an order for
32 reinstatement, shall be waived for a period of 12 months to allow
33 the individual sufficient time to complete the required continuing
34 education units and to submit the required documentation.
35 Individuals whose certificates will expire within 90 days after the
36 order for reinstatement may be granted a three-month extension
37 to renew their certificates during which time the delinquency fees
38 shall not accrue.

39 (6) A certificate that is not renewed within four years after its
40 expiration shall not be renewed, restored, reissued, or reinstated

1 except upon completion of a certification training program, passing
2 any test that may be required of an applicant for a new certificate
3 at that time, and paying the appropriate fees provided for in this
4 section.

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

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

10 (g) Unless otherwise ordered by the department, the certificate
11 shall be considered forfeited under either of the following
12 conditions:

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

15 (2) The department has issued an exclusion order against the
16 administrator pursuant to Section 1558, 1568.092, 1569.58, or
17 1596.8897, after the department issued the certificate, and the
18 administrator did not appeal the exclusion order or, after the appeal,
19 the department issued a decision and order that upheld the
20 exclusion order.

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

34 (A) The applicant has not provided the department with evidence
35 satisfactory to the department of the ability of the applicant to
36 satisfy the requirements of vendorization set out in the regulations
37 adopted by the department pursuant to subdivision (j).

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

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

7 (2) The department may authorize vendors to conduct the
8 administrator's certification training program pursuant to this
9 section. The department shall conduct the written test pursuant to
10 regulations adopted by the department.

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

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

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

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

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

34 (i) An interactive portion in which the participant receives
35 feedback, through online communication, based on input from the
36 participant.

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

39 (iii) A final screen displaying a printable statement, to be signed
40 by the participant, certifying that the identified participant

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

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

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

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

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

29 SEC. 2. Section 1529.2 of the Health and Safety Code is
30 amended to read:

31 1529.2. (a) In addition to the foster parent training provided
32 by community colleges, foster family agencies shall provide a
33 program of training for their certified foster families.

34 (b) (1) Every licensed foster parent shall complete a minimum
35 of 12 hours of foster parent training, as prescribed in paragraph
36 (3), before the placement of any foster children with the foster
37 parent. In addition, a foster parent shall complete a minimum of
38 eight hours of foster parent training annually, as prescribed in
39 paragraph (4). No child shall be placed in a foster family home

1 unless these requirements are met by the persons in the home who
2 are serving as the foster parents.

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

11 (i) Lack of access to training due to the cost or travel required.
12 (ii) Family emergency.

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

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

18 (A) An overview of the child protective system.
19 (B) The effects of child abuse and neglect on child development.
20 (C) Positive discipline and the importance of self-esteem.
21 (D) Health issues in foster care.
22 (E) Accessing education and health services available to foster
23 children.

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

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

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

36 (I) Basic instruction on the existing laws and procedures
37 regarding the safety of foster youth at school and the ensuring of
38 a harassment and violence free school environment contained in
39 the California Student Safety and Violence Prevention Act of 2000

1 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
2 Part 19 of Division 1 of Title 1 of the Education Code).

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

5 (A) Age-appropriate child development.

6 (B) Health issues in foster care.

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

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

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

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

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

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

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

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

34 SEC. 3. Section 300 of the Welfare and Institutions Code is
35 amended to read:

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

39 (a) The child has suffered, or there is a substantial risk that the
40 child will suffer, serious physical harm inflicted nonaccidentally

1 upon the child by the child’s parent or guardian. For the purposes
2 of this subdivision, a court may find there is a substantial risk of
3 serious future injury based on the manner in which a less serious
4 injury was inflicted, a history of repeated inflictions of injuries on
5 the child or the child’s siblings, or a combination of these and other
6 actions by the parent or guardian which indicate the child is at risk
7 of serious physical harm. For purposes of this subdivision, “serious
8 physical harm” does not include reasonable and age-appropriate
9 spanking to the buttocks where there is no evidence of serious
10 physical injury.

11 (b) The child has suffered, or there is a substantial risk that the
12 child will suffer, serious physical harm or illness, as a result of the
13 failure or inability of his or her parent or guardian to adequately
14 supervise or protect the child, or the willful or negligent failure of
15 the child’s parent or guardian to adequately supervise or protect
16 the child from the conduct of the custodian with whom the child
17 has been left, or by the willful or negligent failure of the parent or
18 guardian to provide the child with adequate food, clothing, shelter,
19 or medical treatment, or by the inability of the parent or guardian
20 to provide regular care for the child due to the parent’s or
21 guardian’s mental illness, developmental disability, or substance
22 abuse. No child shall be found to be a person described by this
23 subdivision solely due to the lack of an emergency shelter for the
24 family. Whenever it is alleged that a child comes within the
25 jurisdiction of the court on the basis of the parent’s or guardian’s
26 willful failure to provide adequate medical treatment or specific
27 decision to provide spiritual treatment through prayer, the court
28 shall give deference to the parent’s or guardian’s medical treatment,
29 nontreatment, or spiritual treatment through prayer alone in
30 accordance with the tenets and practices of a recognized church
31 or religious denomination, by an accredited practitioner thereof,
32 and shall not assume jurisdiction unless necessary to protect the
33 child from suffering serious physical harm or illness. In making
34 its determination, the court shall consider (1) the nature of the
35 treatment proposed by the parent or guardian, (2) the risks to the
36 child posed by the course of treatment or nontreatment proposed
37 by the parent or guardian, (3) the risk, if any, of the course of
38 treatment being proposed by the petitioning agency, and (4) the
39 likely success of the courses of treatment or nontreatment proposed
40 by the parent or guardian and agency. The child shall continue to

1 be a dependent child pursuant to this subdivision only so long as
2 is necessary to protect the child from risk of suffering serious
3 physical harm or illness.

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

14 (d) The child has been sexually abused, or there is a substantial
15 risk that the child will be sexually abused, as defined in Section
16 11165.1 of the Penal Code, by his or her parent or guardian or a
17 member of his or her household, or the parent or guardian has
18 failed to adequately protect the child from sexual abuse when the
19 parent or guardian knew or reasonably should have known that
20 the child was in danger of sexual abuse.

21 (e) The child is under the age of five years and has suffered
22 severe physical abuse by a parent, or by any person known by the
23 parent, if the parent knew or reasonably should have known that
24 the person was physically abusing the child. For the purposes of
25 this subdivision, “severe physical abuse” means any of the
26 following: any single act of abuse which causes physical trauma
27 of sufficient severity that, if left untreated, would cause permanent
28 physical disfigurement, permanent physical disability, or death;
29 any single act of sexual abuse which causes significant bleeding,
30 deep bruising, or significant external or internal swelling; or more
31 than one act of physical abuse, each of which causes bleeding,
32 deep bruising, significant external or internal swelling, bone
33 fracture, or unconsciousness; or the willful, prolonged failure to
34 provide adequate food. A child may not be removed from the
35 physical custody of his or her parent or guardian on the basis of a
36 finding of severe physical abuse unless the social worker has made
37 an allegation of severe physical abuse pursuant to Section 332.

38 (f) The child’s parent or guardian caused the death of another
39 child through abuse or neglect.

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

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

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

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

29 (k) The child is a victim of human trafficking, as described in
30 Section 236.1 of the Penal Code, *is a victim of sexual exploitation,*
31 *as described in Section 11165.1 of the Penal Code, or receives*
32 *food or shelter in exchange for, or is paid to perform, sexual acts*
33 *described in Section 236.1 or 11165.1 of the Penal Code, and no*
34 ~~specialized program exists to refer the parent or guardian failed~~
35 ~~or was unable to protect the child to receive services as a victim~~
36 ~~of human trafficking or sexual exploitation.~~

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

39 It is the intent of the Legislature that nothing in this section
40 disrupt the family unnecessarily or intrude inappropriately into

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

23 As used in this section, "guardian" means the legal guardian of
24 the child.

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

27

28 CHAPTER 4. STATE PLAN TO SERVE AND PROTECT SEXUALLY
29 EXPLOITED AND TRAFFICKED MINORS
30

31 2200. This chapter shall be known, and may be cited, as the
32 State Plan to Serve and Protect Sexually Exploited and Trafficked
33 Minors.

34 2201. (a) The purpose of this chapter is to establish the
35 framework for a coordinated effort and plan to serve and protect
36 sexually exploited and trafficked minors.

37 (b) The California Health and Human Services Agency shall,
38 no later than January 30, 2014, convene an interagency workgroup,
39 in accordance with Section 2202, in consultation with the California
40 Child Welfare Council created by Section 16540, for this purpose.

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

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

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

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

10 2202. (a) The interagency workgroup shall be comprised of
11 the State Department of Health Care Services, the Children and
12 Family Services Division of the State Department of Social
13 Services, the Division of Juvenile Justice in the Department of
14 Corrections and Rehabilitation, and the State Department of
15 Education, and shall include a broad spectrum of stakeholders who
16 are responsible for addressing the needs of this population,
17 including, but not limited to, local government agencies, human
18 trafficking service providers, the California Mental Health
19 Directors Association, county probation officers, the County
20 Welfare Directors Association, youth advocates, court
21 representatives, and human trafficking survivors.

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

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

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

36 (2) A multiagency-coordinated child trafficking response
37 protocol and guidelines for local implementation that addresses
38 identification, screening, assessment, immediate and safe shelter,
39 and clear lines of ongoing responsibility to ensure that child

1 trafficking victims have access to the necessary continuum of
2 treatment options, as determined by the workgroup.

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

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

10 (5) The development of data collection and sharing protocols
11 among agencies.

12 (d) In developing the plan, the workgroup shall consider the
13 following:

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

19 (2) The adequacy of existing response protocols and services,
20 including identification, screening, assessment, immediate and
21 safe shelter, and the range of treatment options for child trafficking
22 victims.

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

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

29 16003. (a) In order to promote the successful implementation
30 of the statutory preference for foster care placement with a relative
31 caretaker as set forth in Section 7950 of the Family Code, each
32 community college district with a foster care education program
33 shall make available orientation and training to the relative or
34 nonrelative extended family member caregiver into whose care
35 the county has placed a foster child pursuant to Section 1529.2 of
36 the Health and Safety Code, including, but not limited to, courses
37 that cover the following:

38 (1) The role, rights, and responsibilities of a relative or
39 nonrelative extended family member caregiver caring for a child
40 in foster care, including the right of a foster child to have fair and

1 equal access to all available services, placement, care, treatment,
2 and benefits, and to not be subjected to discrimination or
3 harassment on the basis of actual or perceived race, ethnic group
4 identification, ancestry, national origin, color, religion, sex, sexual
5 orientation, gender identity, mental or physical disability, or HIV
6 status.

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

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

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

10 (5) Health issues in foster care.

11 (6) Accessing education and health services that are available
12 to foster children.

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

15 (8) Permanency options for relative or nonrelative extended
16 family member caregivers, including legal guardianship, the
17 Kinship Guardianship Assistance Payment Program, and kin
18 adoption.

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

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

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

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

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

40 (1) Age-appropriate child development.

- 1 (2) Health issues in foster care.
- 2 (3) Positive discipline and the importance of self-esteem.
- 3 (4) Emancipation and independent living.
- 4 (5) Accessing education and health services available to foster
5 children.
- 6 (6) Relationship and safety issues regarding contact with one
7 or both of the birth parents.
- 8 (7) Permanency options for relative or nonrelative extended
9 family member caregivers, including legal guardianship, the
10 Kinship Guardianship Assistance Payment Program, and kin
11 adoption.
- 12 (8) Basic instruction on the existing laws and procedures
13 regarding the safety of foster youth at school and the ensuring of
14 a harassment and violence free school environment contained in
15 the California Student Safety and Violence Prevention Act of 2000
16 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
17 Part 19 of Division 1 of Title 1 of the Education Code).
- 18 (c) In addition to the requirements of subdivisions (a) and (b),
19 each community college district with a foster care education
20 program, in providing the orientation program, shall develop
21 appropriate program parameters in collaboration with the counties.
- 22 (d) Each community college district with a foster care education
23 program shall make every attempt to make the training and
24 orientation programs for relative or nonrelative extended family
25 member caregivers highly accessible in the communities in which
26 they reside.
- 27 (e) When a child is placed with a relative or nonrelative extended
28 family member caregiver, the county shall inform the caregiver
29 of the availability of training and orientation programs and it is
30 the intent of the Legislature that the county shall forward the names
31 and addresses of relative or nonrelative extended family member
32 caregivers to the appropriate community colleges providing the
33 training and orientation programs.
- 34 (f) This section shall not be construed to preclude counties from
35 developing or expanding existing training and orientation programs
36 for foster care providers to include relative or nonrelative extended
37 family member caregivers.
- 38 SEC. 6. Section 16540 of the Welfare and Institutions Code is
39 amended to read:

1 16540. The California Child Welfare Council is hereby
2 established, which shall serve as an advisory body responsible for
3 improving the collaboration and processes of the multiple agencies
4 and the courts that serve the children and youth in the child welfare
5 and foster care systems. The council shall monitor and report the
6 extent to which child welfare and foster care programs and the
7 courts are responsive to the needs of children in their joint care.
8 The council shall issue advisory reports whenever it deems
9 appropriate, but in any event, no less frequently than annually, to
10 the Governor, the Legislature, the Judicial Council, and the public.
11 A report of the Child Welfare Council shall, at a minimum, include
12 recommendations for all of the following:

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

18 (b) Increasing the quality, appropriateness, and effectiveness
19 of program services and judicial processes delivered to children,
20 youth, and families who would benefit from integrated multiagency
21 services to achieve better outcomes for these children, youth, and
22 families.

23 (c) Promoting consistent program and judicial excellence across
24 counties to the greatest extent possible while recognizing the
25 demographic, geographic, and financial differences among the
26 counties.

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

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

32 (f) Assisting the Secretary of California Health and Human
33 Services and the chief justice in formulating policies for the
34 effective administration of the child welfare and foster care
35 programs and judicial processes.

36 (g) Modifying program practices and court processes, rate
37 structures, and other system changes needed to promote and support
38 relative caregivers, family foster parents, therapeutic placements,
39 and other placements for children who cannot remain in the family
40 home.

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

13 (i) Developing systematic methods for obtaining policy
14 recommendations from foster youth about the effectiveness and
15 quality of program services and judicial processes, and ensuring
16 that the interests of foster youth are adequately addressed in all
17 policy development.

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

21 (k) Monitoring the adequacy of resources necessary for the
22 implementation of existing programs and court processes, and the
23 prioritization of program and judicial responsibilities.

24 (l) Strengthening and increasing the independence and authority
25 of the foster care ombudsperson.

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

28 (n) Providing recommendations and updates to the State Plan
29 to Serve and Protect Sexually Exploited and Trafficked Minors,
30 as described in Chapter 4 (commencing with Section 2200) of
31 Division 2.5.

32 SEC. 7. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

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