

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN SENATE MAY 25, 2016

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 741

Introduced by Assembly Member Williams

February 25, 2015

An act to amend Section 1502 of, and to add Sections ~~1502.1 and 1502.2~~ 1562.02 and 1562.03 to, the Health and Safety Code, and to amend Section 11462.01 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 741, as amended, Williams. Mental health: community care facilities.

Existing law, the California Community Care Facilities Act, provides for the licensing and regulation of community care facilities, as defined, by the State Department of Social Services. Existing law includes within the definition of community care facility ~~a social rehabilitation facility, which is a residential facility that provides social rehabilitation services in a group setting to adults recovering from mental illness. Existing law also defines for this purpose a short-term residential treatment center. center, which is a residential facility licensed by the department and operated by any public agency or private organization that provides short-term, specialized, and intensive treatment, and 24-hour care and supervision to children.~~ A violation of the act is a misdemeanor.

This bill would expand the definition of a social rehabilitation facility to include a residential facility that provides social rehabilitation services in a group setting to children, adolescents, or adults recovering from mental illness or in a mental health crisis. The bill would also expand the definition of a *authorize* a short-term residential treatment center to include *be operated as* a children's crisis residential center, as defined, and would require the department to regulate those ~~program~~, *programs*, as specified. The bill would require the State Department of Health Care Services, in consultation with the County Behavioral Health Directors Association of California, representatives of provider associations, children's advocates, and other stakeholders, to establish Medi-Cal rates for children's crisis residential services, as prescribed. By expanding the types of facilities that are regulated as a community care facility, this bill would expand the scope of an existing crime, thus creating a state-mandated local program.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. In order to be eligible for AFDC-FC, existing law requires a child or nonminor dependent to be placed in a specified placement, including, commencing January 1, 2017, a short-term residential treatment center.

Existing law, effective January 1, 2017, authorizes a short-term residential treatment center to have a program that is certified by the State Department of Health Care Services or by a county mental health plan to which the department has delegated certification authority, or a program that is not certified, or both, and requires a short-term residential treatment center to accept for placement children who meet certain criteria, subject to specified requirements.

This bill would authorize a short-term residential treatment center that is operating as a children's crisis residential center to, subject to specified requirements, accept for admission or placement any child, referred by a parent or guardian, or by the representative of a public or private entity that has the right to make these decisions on behalf of a child who is in mental health crisis and, absent admission to a children's crisis residential center, would otherwise require acceptance by the emergency department of a general hospital, or admission into a psychiatric hospital or the psychiatric inpatient unit of a general hospital.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There is an urgent need to provide more crisis care
4 alternatives to hospitals for children and youth experiencing mental
5 health crises.

6 (b) The problems are especially acute for children and youth
7 who may have to wait for days for a hospital bed and who may be
8 transported, without a parent, to the nearest facility hundreds of
9 miles away.

10 (c) In 2012, the California Hospital Association reported that
11 two-thirds of the people taken to a hospital for a psychiatric
12 emergency did not meet the criteria for that level of care, but the
13 care they needed was not available.

14 (d) The type of care that is needed includes crisis residential
15 treatment for children.

16 (e) This level of care is part of the full continuum of care
17 considered medically necessary for many children with serious
18 emotional disturbances.

19 (f) In 2013, the Legislature enacted the Investment in Mental
20 Health Wellness Act (Senate Bill 82, Chapter 34 of the Statutes
21 of 2013) to provide one-time funding to counties to expand the
22 availability of mental health crisis care services, including
23 short-term crisis residential treatment services. However, there is
24 currently no state licensing category for short-term crisis residential
25 programs for children. As a result, counties wanting to expand
26 local capacity to meet the needs of children and youth for crisis
27 residential treatment services were ineligible for this competitive
28 grant program.

29 ~~(g) Federal Medicaid provisions allow for federal matching~~
30 ~~funds for mental health services delivered to Medi-Cal beneficiaries~~

1 under 21 years of age in psychiatric residential treatment facilities,
2 including short-term crisis residential treatment programs.
3 However, because there is currently no state licensing category
4 for crisis residential treatment programs for children, California
5 is unable to benefit from these otherwise available federal financial
6 resources.

7 (h)

8 (g) In most communities, inpatient crisis treatment is completely
9 unavailable for children and youth, even though it may be
10 medically necessary.

11 (i)

12 (h) Crisis residential care is an essential level of care for the
13 treatment of children and youth with serious emotional disturbances
14 in a mental health crisis, and it often serves as an alternative to
15 hospitalization.

16 (j) It is imperative that public health care coverage include these
17 services as a covered benefit.

18 (i) It is imperative that California identify a licensing category
19 specifically for mental health crisis residential care that can be
20 utilized for children and youth who are beneficiaries of both public
21 and private health care plans.

22 SEC. 2. Section 1502 of the Health and Safety Code is amended
23 to read:

24 1502. (a) As used in this chapter:

25 (a)

26 (1) “Community care facility” means any facility, place, or
27 building that is maintained and operated to provide nonmedical
28 residential care, day treatment, adult day care, or foster family
29 agency services for children, adults, or children and adults,
30 including, but not limited to, the physically handicapped, mentally
31 impaired, incompetent persons, and abused or neglected children,
32 and includes the following:

33 (1)

34 (A) “Residential facility” means any family home, group care
35 facility, or similar facility determined by the director, for 24-hour
36 nonmedical care of persons in need of personal services,
37 supervision, or assistance essential for sustaining the activities of
38 daily living or for the protection of the individual.

39 (2)

1 (B) “Adult day program” means any community-based facility
2 or program that provides care to persons 18 years of age or older
3 in need of personal services, supervision, or assistance essential
4 for sustaining the activities of daily living or for the protection of
5 these individuals on less than a 24-hour basis.

6 ~~(3)~~

7 (C) “Therapeutic day services facility” means any facility that
8 provides nonmedical care, counseling, educational or vocational
9 support, or social rehabilitation services on less than a 24-hour
10 basis to persons under 18 years of age who would otherwise be
11 placed in foster care or who are returning to families from foster
12 care. Program standards for these facilities shall be developed by
13 the department, pursuant to Section 1530, in consultation with
14 therapeutic day services and foster care providers.

15 ~~(4)~~

16 (D) “Foster family agency” means any public agency or private
17 organization engaged in the recruiting, certifying, and training of,
18 and providing professional support to, foster parents, or in finding
19 homes or other places for placement of children for temporary or
20 permanent care who require that level of care. Private foster family
21 agencies shall be organized and operated on a nonprofit basis.

22 ~~(5)~~

23 (E) “Foster family home” means any residential facility
24 providing 24-hour care for six or fewer foster children that is
25 owned, leased, or rented and is the residence of the foster parent
26 or parents, including their family, in whose care the foster children
27 have been placed. The placement may be by a public or private
28 child placement agency or by a court order, or by voluntary
29 placement by a parent, parents, or guardian. It also means a foster
30 family home described in Section 1505.2.

31 ~~(6)~~

32 (F) “Small family home” means any residential facility, in the
33 licensee’s family residence, that provides 24-hour care for six or
34 fewer foster children who have mental disorders or developmental
35 or physical disabilities and who require special care and supervision
36 as a result of their disabilities. A small family home may accept
37 children with special health care needs, pursuant to subdivision
38 (a) of Section 17710 of the Welfare and Institutions Code. In
39 addition to placing children with special health care needs, the

1 department may approve placement of children without special
2 health care needs, up to the licensed capacity.

3 ~~(7)~~

4 (G) “Social rehabilitation facility” means any residential facility
5 that provides social rehabilitation services for no longer than 18
6 months in a group setting to ~~individuals, including children,~~
7 ~~adolescents, and adults; adults recovering from mental illness or~~
8 ~~in a mental health crisis~~ who temporarily need assistance, guidance,
9 or counseling. Program components shall be subject to program
10 standards pursuant to Article 1 (commencing with Section 5670)
11 of Chapter 2.5 of Part 2 of Division 5 of the Welfare and
12 Institutions Code.

13 ~~(8)~~

14 (H) “Community treatment facility” means any residential
15 facility that provides mental health treatment services to children
16 in a group setting and that has the capacity to provide secure
17 containment. Program components shall be subject to program
18 standards developed and enforced by the State Department of
19 Health Care Services pursuant to Section 4094 of the Welfare and
20 Institutions Code.

21 ~~(9)(A)~~

22 (I) (i) “Full-service adoption agency” means any licensed entity
23 engaged in the business of providing adoption services, that does
24 all of the following:

25 ~~(i)~~

26 (I) Assumes care, custody, and control of a child through
27 relinquishment of the child to the agency or involuntary termination
28 of parental rights to the child.

29 ~~(ii)~~

30 (II) Assesses the birth parents, prospective adoptive parents, or
31 child.

32 ~~(iii)~~

33 (III) Places children for adoption.

34 ~~(iv)~~

35 (IV) Supervises adoptive placements.

36 ~~(B)~~

37 (ii) Private full-service adoption agencies shall be organized
38 and operated on a nonprofit basis. As a condition of licensure to
39 provide intercountry adoption services, a full-service adoption
40 agency shall be accredited and in good standing according to Part

1 96 of Title 22 of the Code of Federal Regulations, or supervised
2 by an accredited primary provider, or acting as an exempted
3 provider, in compliance with Subpart F (commencing with Section
4 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

5 ~~(10)(A)~~

6 (J) (i) “Noncustodial adoption agency” means any licensed
7 entity engaged in the business of providing adoption services, that
8 does all of the following:

9 (i)

10 (I) Assesses the prospective adoptive parents.

11 (ii)

12 (II) Cooperatively matches children freed for adoption, who are
13 under the care, custody, and control of a licensed adoption agency,
14 for adoption, with assessed and approved adoptive applicants.

15 ~~(iii)~~

16 (III) Cooperatively supervises adoptive placements with a
17 full-service adoptive agency, but does not disrupt a placement or
18 remove a child from a placement.

19 ~~(B)~~

20 (ii) Private noncustodial adoption agencies shall be organized
21 and operated on a nonprofit basis. As a condition of licensure to
22 provide intercountry adoption services, a noncustodial adoption
23 agency shall be accredited and in good standing according to Part
24 96 of Title 22 of the Code of Federal Regulations, or supervised
25 by an accredited primary provider, or acting as an exempted
26 provider, in compliance with Subpart F (commencing with Section
27 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

28 ~~(11)~~

29 (K) “Transitional shelter care facility” means any group care
30 facility that provides for 24-hour nonmedical care of persons in
31 need of personal services, supervision, or assistance essential for
32 sustaining the activities of daily living or for the protection of the
33 individual. Program components shall be subject to program
34 standards developed by the State Department of Social Services
35 pursuant to Section 1502.3.

36 ~~(12)~~

37 (L) “Transitional housing placement provider” means an
38 organization licensed by the department pursuant to Section
39 1559.110 and Section 16522.1 of the Welfare and Institutions Code
40 to provide transitional housing to foster children at least 16 years

1 of age and not more than 18 years of age, and nonminor
 2 dependents, as defined in subdivision (v) of Section 11400 of the
 3 Welfare and Institutions Code, to promote their transition to
 4 adulthood. A transitional housing placement provider shall be
 5 privately operated and organized on a nonprofit basis.

6 ~~(13)~~

7 (M) “Group home” means a residential facility that provides
 8 24-hour care and supervision to children, delivered at least in part
 9 by staff employed by the licensee in a structured environment. The
 10 care and supervision provided by a group home shall be
 11 nonmedical, except as otherwise permitted by law.

12 ~~(14)~~

13 (N) “Runaway and homeless youth shelter” means a group home
 14 licensed by the department to operate a program pursuant to Section
 15 1502.35 to provide voluntary, ~~short-term~~, *short-term* shelter and
 16 personal services to runaway youth or homeless youth, as defined
 17 in paragraph (2) of subdivision (a) of Section 1502.35.

18 ~~(15)~~

19 (O) “Enhanced behavioral supports home” means a facility
 20 certified by the State Department of Developmental Services
 21 pursuant to Article 3.6 (commencing with Section 4684.80) of
 22 Chapter 6 of Division 4.5 of the Welfare and Institutions Code,
 23 and licensed by the State Department of Social Services as an adult
 24 residential facility or a group home that provides 24-hour
 25 nonmedical care to individuals with developmental disabilities
 26 who require enhanced behavioral supports, staffing, and
 27 supervision in a homelike setting. An enhanced behavioral supports
 28 home shall have a maximum capacity of four consumers, shall
 29 conform to Section 441.530(a)(1) of Title 42 of the Code of Federal
 30 Regulations, and shall be eligible for federal Medicaid home- and
 31 community-based services funding.

32 ~~(16)~~

33 (P) “Community crisis home” means a facility certified by the
 34 State Department of Developmental Services pursuant to Article
 35 8 (commencing with Section 4698) of Chapter 6 of Division 4.5
 36 of the Welfare and Institutions Code, and licensed by the State
 37 Department of Social Services pursuant to Article 9.7 (commencing
 38 with Section 1567.80), as an adult residential facility, providing
 39 24-hour nonmedical care to individuals with developmental
 40 disabilities receiving regional center service, in need of crisis

1 intervention services, and who would otherwise be at risk of
2 admission to the acute crisis center at Fairview Developmental
3 Center, Sonoma Developmental Center, an acute general hospital,
4 acute psychiatric hospital, an institution for mental disease, as
5 described in Part 5 (commencing with Section 5900) of Division
6 5 of the Welfare and Institutions Code, or an out-of-state
7 placement. A community crisis home shall have a maximum
8 capacity of eight consumers, as defined in subdivision (a) of
9 Section 1567.80, shall conform to Section 441.530(a)(1) of Title
10 42 of the Code of Federal Regulations, and shall be eligible for
11 federal Medicaid home- and community-based services funding.

12 ~~(17)~~

13 (Q) “Crisis nursery” means a facility licensed by the department
14 to operate a program pursuant to Section 1516 to provide short-term
15 care and supervision for children under six years of age who are
16 voluntarily placed for temporary care by a parent or legal guardian
17 due to a family crisis or stressful situation.

18 ~~(18)~~

19 (R) “Short-term residential treatment center” means a residential
20 facility licensed by the department pursuant to Section 1562.01
21 and operated by any public agency or private organization that
22 provides short-term, specialized, and intensive treatment, and
23 24-hour care and supervision to children. The care and supervision
24 provided by a short-term residential treatment center shall be
25 nonmedical, except as otherwise permitted by law. ~~“Short-term A~~
26 ~~short-term residential treatment center” includes center may be~~
27 ~~operated as a children’s crisis residential center.~~

28 (S) “*Children’s crisis residential center*” means a short-term
29 residential treatment center operated specifically to divert children
30 experiencing a mental health crisis from psychiatric
31 hospitalization.

32 ~~(b)~~

33 (2) “Department” or “state department” means the State
34 Department of Social Services.

35 ~~(e)~~

36 (3) “Director” means the Director of Social Services.

37 ~~(d) Organizations providing children’s residential~~
38 ~~treatmentservices shall be certified to provide specialty mental~~
39 ~~health services under Medi-Cal and the Early and Periodic~~
40 ~~Screening, Diagnostic, and Treatment (EPSDT) Program.~~

1 (e)
 2 (b) Nothing in this section shall be construed to prohibit or
 3 discourage placement of persons who have mental or physical
 4 disabilities into any category of community care facility that meets
 5 the needs of the individual placed, if the placement is consistent
 6 with the licensing regulations of the department.

7 SEC. 3. ~~Section 1502.1 is added to the Health and Safety Code,~~
 8 ~~to read:~~

9 ~~1502.1. The department shall establish regulations for~~
 10 ~~short-term residential treatment centers that are designated as~~
 11 ~~children’s crisis residential centers. At a minimum, the regulations~~
 12 ~~shall include all of the following:~~

13 ~~(a) The children’s crisis residential center shall be used only for~~
 14 ~~diversion from admittance to a psychiatric hospitalization.~~

15 ~~(b) Length of stay will be limited to 10 consecutive days.~~

16 ~~(c) Therapeutic programming shall be provided seven days a~~
 17 ~~week, including weekends and holidays, with sufficient~~
 18 ~~professional and paraprofessional staff to maintain an appropriate~~
 19 ~~treatment setting and services, based on individual children’s needs.~~

20 ~~(d) The program shall be staffed with sufficient personnel to~~
 21 ~~accept and admit children, at a minimum, from 7 a.m. to 11 p.m.,~~
 22 ~~seven days a week, 365 days per year. The program shall be~~
 23 ~~sufficiently staffed to discharge children, as appropriate, seven~~
 24 ~~days a week, 365 days per year.~~

25 ~~(e) Facilities shall be limited to fewer than 16 beds, with at least~~
 26 ~~50 percent of those beds in single-occupancy rooms.~~

27 ~~(f) Facilities shall include ample physical space for working~~
 28 ~~with individuals who provide natural supports to each child and~~
 29 ~~for integrating family members into the day-to-day care of the~~
 30 ~~youth.~~

31 ~~(g) The center shall collaborate with each child’s mental health~~
 32 ~~team, child and family team, and other paid and natural supports~~
 33 ~~within 24 hours of intake and throughout the course of care and~~
 34 ~~treatment as appropriate.~~

35 SEC. 4. ~~Section 1502.2 is added to the Health and Safety Code,~~
 36 ~~to read:~~

37 ~~1502.2. (a) The State Department of Health Care Services, in~~
 38 ~~consultation with the County Behavioral Health Directors~~
 39 ~~Association of California, representatives of provider associations,~~
 40 ~~children’s advocates, and other stakeholders shall establish~~

1 Medi-Cal rates as needed that are sufficient to reimburse the costs
2 for children's crisis residential services in excess of any specialty
3 mental health services that would have been otherwise authorized,
4 provided, and invoiced for each eligible Medi-Cal beneficiary
5 receiving children's crisis residential services.

6 ~~(b) For foster children admitted for children's crisis residential~~
7 ~~services, programs shall receive payment for board and care~~
8 ~~equivalent to the rate paid for short-term residential treatment~~
9 ~~centers.~~

10 ~~(c) Nothing in this chapter shall prevent a county from providing~~
11 ~~payment in excess of the short-term residential treatment center~~
12 ~~rate in order to meet the needs of individual children.~~

13 *SEC. 3. Section 1562.02 is added to the Health and Safety*
14 *Code, to read:*

15 *1562.02. (a) The department shall establish regulations for*
16 *short-term residential treatment centers that are operated as*
17 *children's crisis residential centers. At a minimum, the regulations*
18 *shall include all of the following:*

19 *(1) The children's crisis residential center shall be used only*
20 *for diversion from admittance to a psychiatric hospitalization.*

21 *(2) Length of stay for a single admission to a children's crisis*
22 *center shall be limited to 10 consecutive days. An organization*
23 *providing children's crisis residential services shall not admit a*
24 *child for more than two consecutive 10-day lengths of stay during*
25 *any 12-month period. Before extending the length of stay for a*
26 *Medi-Cal beneficiary beyond 10 consecutive days, an organization*
27 *providing children's crisis residential services shall obtain prior*
28 *approval from the county mental health plan authorizing those*
29 *services.*

30 *(3) Therapeutic programming shall be provided seven days a*
31 *week, including weekends and holidays, with sufficient professional*
32 *and paraprofessional staff to maintain an appropriate treatment*
33 *setting and services, based on individual children's needs.*

34 *(4) The program shall be staffed with sufficient personnel to*
35 *accept children 24 hours per day, seven days a week and to admit*
36 *children, at a minimum, from 7 a.m. to 11 p.m., seven days a week,*
37 *365 days per year. The program shall be sufficiently staffed to*
38 *discharge children, as appropriate, seven days a week, 365 days*
39 *per year.*

1 (5) Facilities shall be limited to fewer than 16 beds, with at
 2 least 50 percent of those beds in single-occupancy rooms.

3 (6) Facilities shall include ample physical space for
 4 accommodating individuals who provide natural supports to each
 5 child and for integrating family members into the day-to-day care
 6 of the youth.

7 (7) The center shall collaborate with each child’s mental health
 8 team, child and family team, and other formal and natural supports
 9 within 24 hours of intake and throughout the course of care and
 10 treatment as appropriate.

11 (b) The department may adopt regulations, as needed, to waive
 12 the requirements in Section 1562.01 that are in conflict with the
 13 purposes or best practices of operating a children’s crisis
 14 residential center.

15 SEC. 4. Section 1562.03 is added to the Health and Safety
 16 Code, to read:

17 1562.03. (a) The State Department of Health Care Services,
 18 in consultation with the County Behavioral Health Directors
 19 Association of California, representatives of provider associations,
 20 children’s advocates, and other stakeholders shall establish
 21 Medi-Cal rates as needed that are sufficient to reimburse the costs
 22 for children’s crisis residential services in excess of any specialty
 23 mental health services that would have been otherwise authorized,
 24 provided, and invoiced for each eligible Medi-Cal beneficiary
 25 receiving children’s crisis residential services.

26 (b) For foster children admitted for children’s crisis residential
 27 services, programs shall receive payment for board and care
 28 equivalent to the rate paid for short-term residential treatment
 29 centers.

30 (c) Nothing in this chapter shall prevent a county from providing
 31 payment in excess of the short-term residential treatment center
 32 rate in order to meet the needs of individual children.

33 SEC. 5. Section 11462.01 of the Welfare and Institutions Code,
 34 as added by Section 75 of Chapter 773 of the Statutes of 2015, is
 35 amended to read:

36 11462.01. (a) A short-term residential treatment center, as
 37 defined in subdivision (ad) of Section 11400 and *subparagraph*
 38 *(R)* of paragraph ~~(18)~~ *(I)* of subdivision (a) of Section 1502 of the
 39 Health and Safety Code, may have a program that is certified by
 40 the State Department of Health Care Services or by a county mental

1 health plan to which the department has delegated certification
2 authority, pursuant to Section 4096.5, or a program that is not
3 certified, or both. A short-term residential treatment center, *except*
4 *as specified in subdivision (d)*, shall accept for placement children
5 who meet all of the following criteria, subject to the other
6 requirements of subdivisions (b) and (c):

7 (1) The child does not require inpatient care in a licensed health
8 facility.

9 (2) The child has been assessed as requiring the level of services
10 provided in a short-term residential treatment center in order to
11 maintain the safety and well-being of the child or others due to
12 behaviors, including those resulting from traumas, that render the
13 child or those around the child unsafe or at risk of harm, or that
14 prevent the effective delivery of needed services and supports
15 provided in the child's own home or in other family settings, such
16 as with a relative, guardian, foster family, resource family, or
17 adoptive family.

18 (3) The child meets at least one of the following conditions:

19 (A) The child has been assessed as meeting the medical necessity
20 criteria for Medi-Cal specialty mental health Early and Periodic
21 Screening, Diagnosis, and Treatment Services, as the criteria are
22 described in Section 1830.210 of Title 9 of the California Code of
23 Regulations.

24 (B) The child has been assessed as seriously emotionally
25 disturbed, as described in subdivision (a) of Section 5600.3.

26 (C) The child has been assessed as requiring the level of services
27 provided in order to meet his or her behavioral or therapeutic needs.
28 In appropriate circumstances, this may include any of the
29 following:

30 (i) A commercially sexually exploited child.

31 (ii) A private voluntary placement, if the youth exhibits status
32 offender behavior, the parents or other relatives feel they cannot
33 control the child's behavior, and short-term intervention is needed
34 to transition the child back into the home.

35 (iii) A juvenile sex offender.

36 (iv) A child who is affiliated with, or impacted by, a gang.

37 (b) A short-term residential treatment center program that is
38 certified by the State Department of Health Care Services, or by
39 a county mental health plan to which the department has delegated
40 certification authority, pursuant to Section 4096.5, shall solely

1 accept for placement, and provide access to mental health services
2 to, children who meet the criteria in paragraphs (1) and (2) of
3 subdivision (a), and meet the conditions of subparagraph (A) or
4 (B) of paragraph (3) of subdivision (a), or both of those
5 subparagraphs. Mental health services are provided directly by the
6 certified program.

7 (c) A short-term residential treatment center program that is not
8 certified pursuant to Section 4096.5 shall solely accept for
9 placement in that program a child who meets the criteria in
10 paragraphs (1) and (2) of subdivision (a), and meets the conditions
11 of subparagraph (A), (B), or (C) of paragraph (3) of subdivision
12 (a), or any combination of those subparagraphs. A child who meets
13 the conditions of subparagraphs (A) and (B) of paragraph (3) of
14 subdivision (a) may be accepted for placement, if the interagency
15 placement committee determines that a short-term residential
16 treatment facility that is not certified has a program that meets the
17 specific needs of the child and there is a commonality of needs
18 with the other children in the short-term residential treatment
19 center. In this situation, the short-term residential treatment center
20 shall do either of the following:

21 (1) In the case of a child who is a Medi-Cal beneficiary, arrange
22 for the child to receive specialty mental health services from the
23 county mental health plan.

24 (2) In all other cases, arrange for the child to receive mental
25 health services.

26 (d) *A short-term residential treatment center that is operating*
27 *as a children's crisis residential center, as defined in Section 1502*
28 *of the Health and Safety Code, and subject to the other*
29 *requirements of subdivisions (b) and (c), may accept for admission*
30 *or placement any child, referred by a parent or guardian, or by*
31 *the representative of a public or private entity, including, but not*
32 *limited to, the county probation agency or child welfare services*
33 *agency with responsibility for the placement of a child in foster*
34 *care, that has the right to make these decisions on behalf of a child*
35 *who is in mental health crisis and, absent admission to a children's*
36 *crisis residential center, would otherwise require acceptance by*
37 *the emergency department of a general hospital, or admission into*
38 *a psychiatric hospital or the psychiatric inpatient unit of a general*
39 *hospital.*

40 (d)

1 (e) A foster family agency, as defined in subdivision (g) of
2 Section 11400 and *subparagraph (D) of paragraph (1)* of
3 subdivision (a) of Section 1502 of the Health and Safety Code,
4 may have a program that is certified by the State Department of
5 Health Care Services, or by a county mental health plan to which
6 the department has delegated certification authority, pursuant to
7 Section 1810.435 or 1810.436 of Title 9 of the California Code of
8 Regulations, or a program that is not certified, or both. A program,
9 subject to subdivisions ~~(e) and (f)~~, *(f) and (g)*, shall provide access
10 to mental health services to the children. A foster family agency,
11 depending on whether or not it has a certified program, shall
12 provide access to mental health services to children who do not
13 require inpatient care in a licensed health facility and who meet
14 any one or more of the following conditions:

15 (1) A child who has been assessed as meeting the medical
16 necessity criteria for specialty mental health services under the
17 Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment
18 benefit, as the criteria are described in Section 1830.210 of Title
19 9 of the California Code of Regulations.

20 (2) A child who has been assessed as seriously emotionally
21 disturbed, as described in subdivision (a) of Section 5600.3.

22 (3) A child who has been assessed as requiring the level of
23 services to meet his or her behavioral or therapeutic needs.

24 ~~(e)~~

25 (f) A foster family agency that is certified as a provider pursuant
26 to Section 1810.435 or 1810.436 of Title 9 of the California Code
27 of Regulations by the State Department of Health Care Services,
28 or by a county mental health plan to which the department has
29 delegated certification authority, shall provide access to mental
30 health services directly to children in its program who do not
31 require inpatient care in a licensed health facility and who meet
32 the conditions of paragraph (1) or (2) of subdivision ~~(d)~~: *(e)*.

33 ~~(f)~~

34 (g) A foster family agency that is not certified as described in
35 subdivision ~~(e)~~ *(f)* may provide access to mental health services
36 in that program for children who do not require inpatient care in
37 a licensed health facility and who meet the conditions of paragraphs
38 (1) and (2) of subdivision ~~(d)~~: *(e)*. In this situation the foster family
39 agency shall do the following:

1 (1) In the case of a child who is a Medi-Cal beneficiary, have
2 written interagency protocols in place to arrange for specialty
3 mental health services from the county mental health plan or an
4 organizational provider, as defined in Section 1810.231 of Title 9
5 of California Code of Regulations.

6 (2) In all other cases, arrange for the child to receive mental
7 health services.

8 ~~(g)~~

9 (h) All short-term residential treatment centers and foster family
10 agencies that operate a certified program shall maintain the level
11 of care and services necessary to meet the needs of the children
12 and youth in their care and shall maintain and have in good
13 standing the appropriate mental health certification issued by the
14 State Department of Health Care Services or a county mental health
15 plan to which the department has delegated certification authority,
16 pursuant to Section 4096.5 of this code or Section 1810.435 or
17 1810.436 of Title 9 of the California Code of Regulations.

18 ~~(h)~~

19 (i) The assessments described in subparagraphs (A) and (B) of
20 paragraph (3) of subdivision (a) and paragraphs (1) and (2) of
21 subdivision ~~(d)~~, (e), shall be made by all of the following, as
22 applicable:

23 (1) An interagency placement committee, as described in Section
24 4096, considering the recommendations from the child and family
25 team, if any are available.

26 (2) A licensed mental health professional as defined in
27 subdivision (g) of Section 4096.

28 (3) For the purposes of this section, an AFDC-FC funded child
29 with an individualized education program developed pursuant to
30 Article 2 (commencing with Section 56320) of Chapter 4 of Part
31 30 of Division 4 of Title 2 of the Education Code that assesses the
32 child as seriously emotionally disturbed, as defined in, and subject
33 to, this section and recommends out-of-home placement at the
34 level of care provided by the provider, shall be deemed to have
35 met the assessment requirement.

36 (4) For the purposes of this section, and only for placement into
37 a foster family agency, an AFDC-FC funded child assessed
38 pursuant to subdivision (b) of Section 706.6 or paragraph (2) of
39 subdivision (c) of Section 16501.1, in consultation with a mental

1 health professional, as defined in subdivision (g) of Section 4096.5,
2 shall be deemed to have met the assessment requirement.

3 ~~(i)~~

4 (j) The assessments described in subparagraph (C) of paragraph
5 (3) of subdivision (a) and paragraph (3) of subdivision ~~(d)~~ (e) shall
6 be made pursuant to subdivision (b) of Section 706.6 or paragraph
7 (2) of subdivision (c) of Section 16501.1.

8 ~~(j)~~

9 (k) (1) The provider shall ensure that AFDC-FC funded
10 children, assessed pursuant to subparagraphs (A) and (B) of
11 paragraph (3) of subdivision (a) or paragraphs (1) and (2) of
12 subdivision ~~(d)~~, (e), who are accepted for placement have been
13 approved for placement by an interagency placement committee,
14 as described in Section 4096, except as provided for in paragraphs
15 (3) and (4) of subdivision ~~(h)~~: (i).

16 (2) The approval shall be in writing and shall indicate that the
17 interagency placement committee has determined all of the
18 following:

19 (A) The child meets the medical necessity criteria for Medi-Cal
20 specialty mental health Early and Periodic Screening, Diagnosis,
21 and Treatment services, as the criteria are described in Section
22 1830.210 of Title 9 of the California Code of Regulations.

23 (B) The child is seriously emotionally disturbed, as described
24 in subdivision (a) of Section 5600.3.

25 (C) Subject to Section 1502.4 of the Health and Safety Code,
26 the child needs the level of care provided by the program.

27 (3) (A) Nothing in subdivisions (a) to ~~(i)~~, (j), inclusive, or this
28 subdivision shall prevent an emergency placement of a child or
29 youth into a certified short-term residential treatment center,
30 *children's crisis residential center*, or foster family agency program
31 prior to the determination by the interagency placement committee,
32 but only if a licensed mental health professional, as defined in
33 subdivision (g) of Section 4096, has made a written determination
34 within 72 hours of the child's or youth's placement, that the child
35 or youth is seriously emotionally disturbed *or has made a written*
36 *determination within 24 hours of the child's or youth's placement*
37 *in a children's crisis residential center that the child or youth is*
38 *experiencing a mental health crisis as defined in subdivision (d)*,
39 and is in need of the care and services provided by the certified

1 short-term residential treatment center, *children’s crisis residential*
2 *center*, or foster family agency.

3 (i) The interagency placement committee, as appropriate, shall,
4 within 30 days of placement, make the determinations, with
5 recommendations from the child and family team, required by this
6 subdivision.

7 (ii) If it determines the placement is appropriate, the interagency
8 placement committee, with recommendations from the child and
9 family team, shall transmit the approval, in writing, to the county
10 placing agency and the short-term residential treatment center or
11 foster family agency.

12 (iii) If it determines the placement is not appropriate, the
13 interagency placement committee shall respond pursuant to
14 subparagraph (B).

15 (B) If the interagency placement committee determines at any
16 time that the placement is not appropriate, it shall, with
17 recommendations from the child and family team, transmit the
18 disapproval, in writing, to the county placing agency and the
19 short-term residential treatment center or foster family agency,
20 and the child or youth shall be referred to an appropriate placement,
21 as specified in this section.

22 ~~(k)~~

23 (l) Commencing January 1, 2017, for AFDC-FC funded children
24 or youth, only those children or youth who are approved for
25 placement, as set forth in this section, may be accepted by a
26 short-term residential treatment center or foster family agency.

27 ~~(t)~~

28 (m) The department shall, through regulation, establish
29 consequences for the failure of a short-term residential treatment
30 center, or a foster family agency, to obtain written approval for
31 placement of an AFDC-FC funded child or youth pursuant to this
32 section.

33 ~~(m)~~

34 (n) The department shall not establish a rate for a short-term
35 residential treatment center or foster family agency unless the
36 provider submits a recommendation from the host county or the
37 primary placing county that the program is needed and that the
38 provider is willing and capable of operating the program at the
39 level sought. For purposes of this subdivision, “host county,” and

1 “primary placing county,” mean the same as defined in the
2 department’s AFDC-FC ratesetting regulations.

3 ~~(n)~~

4 (o) Any certified short-term residential treatment center or foster
5 family agency shall be reclassified and paid at the appropriate
6 program rate for which it is qualified if either of the following
7 occurs:

8 (1) (A) It fails to maintain the level of care and services
9 necessary to meet the needs of the children and youth in care, as
10 required by subdivision (a). The determination shall be made
11 consistent with the department’s AFDC-FC ratesetting regulations
12 developed pursuant to Sections 11462 and 11463 and shall take
13 into consideration the highest level of care and associated rates
14 for which the program is eligible.

15 (B) In the event of a determination under this paragraph, the
16 short-term residential treatment center or foster family agency may
17 appeal the finding or submit a corrective action plan. The appeal
18 process specified in Section 11466.6 shall be available to a
19 short-term residential treatment center or foster family agency that
20 provides intensive and therapeutic treatment. During any appeal,
21 the short-term residential treatment center or foster family agency
22 that provides intensive and therapeutic treatment shall maintain
23 the appropriate level of care.

24 (2) It fails to maintain a certified mental health treatment
25 program as required by subdivision ~~(g)~~: (h).

26 ~~(o)~~

27 (p) In addition to any other review required by law, the child
28 and family team as defined in paragraph (4) of subdivision (a) of
29 Section 16501 may periodically review the placement of the child
30 or youth. If the child and family team make a recommendation
31 that the child or youth no longer needs, or is not benefiting from,
32 placement in a short-term residential treatment center or foster
33 family agency, or one of its programs, the team shall transmit the
34 disapproval, in writing, to the county placing agency to consider
35 a more appropriate placement.

36 ~~(p)~~

37 (q) The department shall develop a process to address
38 placements when, subsequent to the child’s or youth’s placement,
39 a determination is made by the interagency placement team and
40 shall consider the recommendations of the child and family team,

1 either that the child or youth is not in need of the care and services
2 provided by the certified program. The process shall include, but
3 not be limited to:

4 (1) Notice of the determination in writing to both the county
5 placing agency and the short-term residential treatment center or
6 foster family agency that provides intensive and therapeutic
7 treatment.

8 (2) Notice of the county’s plan, and a time frame, for removal
9 of the child or youth in writing to the short-term residential
10 treatment center or foster family agency that provides intensive
11 and therapeutic treatment.

12 (3) Referral to an appropriate placement.

13 (4) Actions to be taken if a child or youth is not timely removed
14 from the short-term residential treatment center or foster family
15 agency that provides intensive and therapeutic treatment or placed
16 in an appropriate placement.

17 ~~(q)~~

18 (r) (1) Nothing in this section shall prohibit a short-term
19 residential treatment center or foster family agency from accepting
20 private placements of children or youth.

21 (2) When a referral is not from a public agency and no public
22 funding is involved, there is no requirement for public agency
23 review nor determination of need.

24 (3) Children and youth subject to paragraphs (1) and (2) shall
25 have been determined to be seriously emotionally disturbed, as
26 described in subdivision (a) of Section 5600.3, and subject to
27 Section 1502.4 of the Health and Safety Code, by a licensed mental
28 health professional, as defined in subdivision (g) of Section 4096.

29 ~~(r)~~

30 (s) This section shall become operative on January 1, 2017.

31 ~~SEC. 5.~~

32 *SEC. 6.* No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O