

AMENDED IN SENATE APRIL 22, 2015

SENATE BILL

No. 484

Introduced by Senator Beall
(Principal coauthor: Assembly Member Chiu)
(Coauthors: Senators Mitchell and Monning)

February 26, 2015

An act to amend Section 1536 of, and to add ~~Section 1538.8~~ *Sections 1538.8 and 1538.9* to, the Health and Safety Code, and to amend Section 11469 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 484, as amended, Beall. Juveniles.

(1) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including foster family homes and group homes, by the State Department of Social Services. A violation of this act is a misdemeanor.

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

This bill would require the department director to ~~include in that list~~ *compile* specified information regarding administering psychotropic medications to children in those facilities *and to post that information to the department's Internet Web site. The bill would require the department to establish a methodology to identify those group homes that have disproportionately high levels of psychotropic drug usage.* The bill would also require the department, ~~if it determines based on that information that a facility is administering psychotropic medications to children at a rate exceeding the average authorization for all group~~

~~homes, to inspect that facility for the facilities identified by the methodology that it establishes, to visit those facilities at least once a year to examine specified factors that contribute to the high utilization of psychotropic medications. The bill would require an inspected facility to submit to the department, within 60 days of that inspection, a facility that is found to have a high utilization of dangerous psychotropic medication regimens and inadequate alternative, less invasive psychosocial, crisis management, and other services, to submit a corrective action plan including to address steps the facility shall take to reduce the utilization of psychotropic medications. inappropriate prescribing and treatment regimens within 60 days of the visit.~~ The bill would require the department to monitor the facility’s implementation of that plan and make a report, as provided. Because this bill would create a new crime, the bill would impose a state-mandated local program.

(2) Existing law requires the department, on or before January 1, 2016, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts with minors in group homes or under supervision of group home staff.

This bill would require the department, on or before January 1, 2017, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to reduce utilization of psychotropic medications for children in group homes. The bill would also delete an obsolete provision.

(3) 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. Section 1536 of the Health and Safety Code is
 2 amended to read:

1 1536. (a) (1) At least annually, the director shall publish and
2 make available to interested persons a list or lists covering all
3 licensed community care facilities, other than foster family homes
4 and certified family homes of foster family agencies providing
5 24-hour care for six or fewer foster children, and the services for
6 which each facility has been licensed or issued a special permit.

7 (2) For a group home, transitional housing placement provider,
8 community treatment facility, or runaway and homeless youth
9 shelter, the list shall include ~~all~~ *both* of the following:

10 (A) The number of licensing complaints, types of complaint,
11 and outcomes of complaints, including citations, fines, exclusion
12 orders, license suspensions, revocations, and surrenders.

13 (B) The number, types, and outcomes of law enforcement
14 contacts made by the facility staff or children, as reported pursuant
15 to subdivision (a) of Section 1538.7.

16 ~~(C) The number of children administered psychotropic
17 medications in the facility, and all of the following information
18 pertaining to those children:~~

19 ~~(1) The number of children for whom the juvenile court
20 preauthorized the administration of the psychotropic medication:~~

21 ~~(2) The number of children administered psychotropic
22 medication on an emergency basis.~~

23 ~~(3) The number of those children who are 6 to 11 years of age,
24 inclusive.~~

25 ~~(4) The number of those children who are 12 to 17 years of age,
26 inclusive.~~

27 ~~(5) The number of children administered an antipsychotic, mood
28 stabilizing, or antidepressant medication.~~

29 ~~(6) The number of children administered two or more drugs
30 from the same class, including, but not limited to, antidepressants,
31 antipsychotics, antianxiety medications.~~

32 ~~(7) The number of children administered two, three, four, or
33 more psychotropic medications concurrently.~~

34 ~~(8) The number of children administered one or more
35 medications for longer than 90 days.~~

36 ~~(9) The number of children terminated from the program due
37 to the child's refusal to take psychotropic medication.~~

38 (b) Subject to subdivision (c), to encourage the recruitment of
39 foster family homes and certified family homes of foster family
40 agencies, protect their personal privacy, and to preserve the security

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

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

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

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

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

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

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

39 (A) Violating licensing rules and regulations.

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

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

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

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

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

11 (f) *At least annually, the department shall post to its Internet*
12 *Web site a summary progress report with data that excludes*
13 *personally identifiable information of the information gathered*
14 *pursuant to Section 1538.8.*

15 *SEC. 2. Section 1538.8 is added to the Health and Safety Code,*
16 *to read:*

17 *1538.8. (a) In order to identify group homes in which*
18 *psychotropic medications may be inappropriately administered to*
19 *children the director shall compile, at least annually, the following*
20 *information concerning each home:*

21 *(1) The number of children in the facility to whom psychotropic*
22 *medications were administered.*

23 *(2) The number of children in the facility who are 6 to 11 years*
24 *of age, inclusive, to whom psychotropic medications were*
25 *administered.*

26 *(3) The number of children in the facility who are 12 to 17 years*
27 *of age, inclusive, to whom psychotropic medications were*
28 *administered.*

29 *(4) The number of children for whom the juvenile court*
30 *preauthorized the administration of psychotropic medication.*

31 *(5) The number of children to whom psychotropic medications*
32 *were administered on an emergency basis.*

33 *(6) The number of children to whom antipsychotic, mood*
34 *stabilizing, or antidepressant medications were administered.*

35 *(7) The number of children who received two or more drugs*
36 *from the same class, including, but not limited to, antidepressants,*
37 *antipsychotics, and antianxiety medications.*

38 *(8) The number of children who received two or more*
39 *psychotropic medications concurrently, and whether those children*

1 received two, three, four, or more than four psychotropic
2 medications concurrently.

3 (9) The number of children who received one or more
4 medications for more than 90 days.

5 (10) The number of children who received psychosocial services
6 while in a group home placement while they received a
7 psychotropic medication.

8 (11) The number of children who received a dosage of a
9 psychotropic medication at a dosage above the maximum dosage
10 approved by the federal Food and Drug Administration.

11 (12) The number of children who received metabolic monitoring
12 in accordance with professional standards of care while they
13 received psychotropic medication.

14 (13) The number of children who were prescribed antipsychotic
15 medications for a use not approved by the federal Food and Drug
16 Administration.

17 (b) The data in subdivision (a) concerning psychotropic
18 medication, mental health services, and placement shall be drawn
19 from existing data systems, including, but not limited to, the
20 Medicaid Management Information System’s medical and
21 pharmacy claims data, and the Child Welfare Services/Case
22 Management System, through the data sharing agreement between
23 the State Department of Health Care Services and the State
24 Department of Social Services.

25 ~~SEC. 2.~~

26 ~~SEC. 3.~~ Section 1538.8 1538.9 is added to the Health and Safety
27 Code, to read:

28 ~~1538.8. (a) If the department, based upon the information~~
29 ~~gathered pursuant to Section 1536, determines that the children~~
30 ~~and adolescents in a facility are administered psychotropic~~
31 ~~medications at a rate that exceeds the average authorization for all~~
32 ~~group homes, the department shall inspect the facility at least once~~
33 ~~a year to examine the policies, procedures, practices, child-to-staff~~
34 ~~ratios, staff training, and other factors that the department~~
35 ~~determines contribute to the high utilization of psychotropic~~
36 ~~medications.~~

37 ~~(b) A facility inspected pursuant to subdivision (a) shall submit~~
38 ~~to the department a corrective action plan within 60 days of that~~
39 ~~inspection. The plan shall address the steps that the facility shall~~

1 ~~take to reduce the utilization of psychotropic medications among~~
2 ~~residents.~~

3 1538.9. (a) (1) *The department, based upon the information*
4 *compiled pursuant to Section 1538.8, shall consult with the foster*
5 *care ombudsman and stakeholder quality improvement workgroups*
6 *to establish a methodology to identify those group homes that have*
7 *disproportionately high levels of psychotropic drug usage*
8 *warranting additional review of the facility.*

9 (2) *The department shall visit facilities identified in paragraph*
10 *(1) at least once a year to review the facilities plan of operation,*
11 *policies, procedures, practices, child-to-staff ratios, staff*
12 *qualifications and training, implementation of children’s needs*
13 *and services plan, and other factors that the department determines*
14 *contribute to the high utilization of dangerous psychotropic*
15 *medication regimens and low utilization of monitoring and*
16 *psychosocial services.*

17 (3) *The department shall perform visits pursuant to paragraph*
18 *(2) with input from stakeholders, including, but not limited to, the*
19 *foster care ombudsman and foster care mental health ombudsman,*
20 *foster youth, foster youth advocates, county welfare departments,*
21 *and county mental health departments.*

22 (4) *The department shall include in each visit confidential*
23 *discussions with current and former foster youth placed in the*
24 *facility’s care and confidential discussions with physicians*
25 *identified as prescribing the medications. The State Department*
26 *of Health Care Services and the State Department of Social*
27 *Services shall, using existing data systems, identify prescribers’*
28 *names, addresses, and contact information in order to facilitate*
29 *interviews with providers.*

30 (b) *If, during a visit pursuant to subdivision (a), the department*
31 *finds that the facility has a high utilization of dangerous*
32 *psychotropic medication regimens, based on measures established*
33 *pursuant to this section and inadequate alternative, less invasive*
34 *psychosocial, crisis management, and other services, the facility*
35 *shall submit to the department a plan to address the steps that the*
36 *facility shall take to reduce inappropriate prescribing and*
37 *treatment regimens within 60 days of the visit. The plan shall do*
38 *the following:*

1 (1) *Include an improved crisis management plan, including*
2 *deescalation techniques and procedures in which their staff will*
3 *be trained.*

4 (2) *Include an overall behavioral management plan which shall*
5 *be a trauma-informed plan.*

6 (3) *Identify a quantifiable goal to decrease the use of*
7 *antipsychotic medications for behavioral control, to decrease*
8 *polypharmacy, and to decrease the use of pro re nata medications.*

9 (4) *Identify a quantifiable goal of appropriate metabolic*
10 *monitoring as set forth in the state prescribing guidelines and*
11 *psychosocial, physical, mental, behavioral, and nutritional services*
12 *for children previously or currently prescribed psychotropic*
13 *medications while placed in that facility.*

14 (c) The department shall monitor a facility's implementation of
15 ~~its corrective action~~ the plan submitted pursuant to subdivision (b)
16 to determine ~~both~~ all of the following:

17 (1) Whether the facility has reduced the rate at which residents
18 are administered *pro re nata, multiple, and off-label* psychotropic
19 medications, and, if so, the percentage decrease in the
20 administration of those medications.

21 (2) Whether and to what extent alternative, less invasive
22 treatments are being provided to ~~residents~~ residents, and, if so,
23 the percentage increase in the provision of those services.

24 (3) Whether and to what extent appropriate metabolic
25 monitoring is being conducted and, if so, the percentage increase
26 in the provision of appropriate monitoring.

27 (d) Following an inspection pursuant to subdivision (a), the
28 Community Care Licensing Division shall provide a report to the
29 department's Children and Family Services Division and to any
30 other public agency that has certified the facility's program or any
31 component of the facility's program, including, but not limited to,
32 the State Department of Health Care Services, which certifies
33 group homes pursuant to Section 4096.5 of the Welfare and
34 Institutions Code.

35 (e) (1) *Notwithstanding the rulemaking provisions of the*
36 *Administrative Procedure Act (Chapter 3.5 (commencing with*
37 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
38 *Code), until emergency regulations are filed with the Secretary of*
39 *State, the department may implement this section through*
40 *all-county letters or similar instructions from the director.*

1 (2) *On or before January 1, 2017, the department shall adopt*
2 *regulations to implement this section. The initial adoption,*
3 *amendment, or repeal of a regulation authorized by this subdivision*
4 *is deemed to address an emergency, for purposes of Sections*
5 *11346.1 and 11349.6 of the Government Code, and the department*
6 *is hereby exempted for that purpose from the requirements of*
7 *subdivision (b) of Section 11346.1 of the Government Code. After*
8 *the initial adoption, amendment, or repeal of an emergency*
9 *regulation pursuant to this section, the department may twice*
10 *request approval from the Office of Administrative Law to readopt*
11 *the regulation as an emergency regulation pursuant to Section*
12 *11346.1 of the Government Code. The department shall adopt final*
13 *regulations on or before January 1, 2018.*

14 ~~SEC. 3.~~

15 SEC. 4. Section 11469 of the Welfare and Institutions Code is
16 amended to read:

17 11469. (a) The department, in consultation with group home
18 providers, the County Welfare Directors ~~Association~~, *Association*
19 *of California*, the Chief Probation Officers of California, the
20 California Mental Health Directors Association, and the State
21 Department of Health Care Services, shall develop performance
22 standards and outcome measures for determining the effectiveness
23 of the care and supervision, as defined in subdivision (b) of Section
24 11460, provided by group homes under the AFDC-FC program
25 pursuant to Sections 11460 and 11462. These standards shall be
26 designed to measure group home program performance for the
27 client group that the group home program is designed to serve.

28 (1) The performance standards and outcome measures shall be
29 designed to measure the performance of group home programs in
30 areas over which the programs have some degree of influence, and
31 in other areas of measurable program performance that the
32 department can demonstrate are areas over which group home
33 programs have meaningful managerial or administrative influence.

34 (2) These standards and outcome measures shall include, but
35 are not limited to, the effectiveness of services provided by each
36 group home program, and the extent to which the services provided
37 by the group home assist in obtaining the child welfare case plan
38 objectives for the child.

39 (3) In addition, when the group home provider has identified
40 as part of its program for licensing, ratesetting, or county placement

1 purposes, or has included as a part of a child's case plan by mutual
2 agreement between the group home and the placing agency,
3 specific mental health, education, medical, and other child-related
4 services, the performance standards and outcome measures may
5 also measure the effectiveness of those services.

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

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

17 (d) A group home program shall be classified at rate
18 classification level 13 or 14 only if all of the following are met:

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

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

24 (3) The program meets the performance standards designed
25 pursuant to this section.

26 (e) Notwithstanding subdivision (c), the group home program
27 performance standards system shall not be implemented prior to
28 the implementation of the AFDC-FC performance standards
29 system.

30 (f) On or before January 1, 2016, the department, in consultation
31 with the County Welfare Directors ~~Association~~, *Association of*
32 *California*, the Chief Probation Officers of California, the
33 California Mental Health Directors Association, research entities,
34 foster youth, advocates for foster youth, foster care provider
35 business entities organized and operated on a nonprofit basis,
36 Indian tribes, and other stakeholders, shall develop additional
37 performance standards and outcome measures that require group
38 homes to implement programs and services to minimize law
39 enforcement contacts and delinquency petition filings arising from
40 incidents of allegedly unlawful behavior by minors occurring in

1 group homes or under the supervision of group home staff,
2 including individualized behavior management programs,
3 emergency intervention plans, and conflict resolution processes.

4 (g) On or before January 1, 2017, the department, in consultation
5 with the County Welfare Directors ~~Association~~, *Association of*
6 *California*, the Chief Probation Officers of California, the
7 California Mental Health Directors Association, research entities,
8 foster youth, advocates for foster youth, foster care provider
9 business entities organized and operated on a nonprofit basis,
10 Indian tribes, and other stakeholders, shall develop additional
11 performance standards and outcome measures that require group
12 homes to implement programs and services to reduce the utilization
13 of psychotropic medications for children in group homes, including
14 individualized behavior management programs, emergency
15 intervention plans, and conflict resolution processes.

16 ~~SEC. 4.~~

17 *SEC. 5.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.