

Introduced by Senator Soto

February 24, 2006

An act to amend Section 1536.2 of, and to add Section 1530.3 to, the Health and Safety Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1641, as introduced, Soto. Foster care providers.

Existing law provides for the licensure and regulation of community care facilities, including foster family agencies, foster family homes, small family homes, and group homes as defined, by the State Department of Social Services.

This bill would require the State Department of Social Services by February 1, 2007, to convene a workgroup to review state foster care licensing statutes, regulations, and policies, to determine whether those requirements ensure that foster children and youth are not unnecessarily stigmatized by placement in unnecessarily restrictive environments. The bill would also require the workgroup to assess whether the statutes, regulations, and policies hinder the recruitment of qualified foster parents, and to consider opportunities for creating efficiencies in the department's foster care licensing process. The bill would require the workgroup to issue a report, by December 31, 2007, with recommendations to the Legislature for statutory, regulatory, and policy changes.

Under existing law, when a placement agency has placed a child with a foster family agency, the foster family agency is required to place the child in a licensed foster family home or certified family home that best meets the needs of the child.

This bill would expand this provision to include instances when a placement agency places a child with a relative caregiver, nonrelative extended family member, licensed foster family home, or group home.

The bill would define a home that meets the best needs of the child to include a home that meets the child's health, safety, and well-being needs, is the least restrictive and most family like environment, and allows the child to engage in reasonable, age-appropriate activities, as specified. The bill would require the foster child's caregiver to use a reasonable and prudent parent standard to determine these age-appropriate activities.

Violation of the provisions relating to the licensing and regulation of community care facilities is a misdemeanor. By revising the requirements applicable to placement agencies and foster care providers, the bill would change the definition of a crime, thereby imposing 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 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 as follows:
2 (a) Many of the state's foster care licensing statutes,
3 regulations, and policies have understandably been developed
4 with the sole objective of protecting the safety of children and
5 youth in foster care, with little regard for the creation of a foster
6 home environment that resembles actual nonfoster care living
7 environments. In many cases these rules serve to stigmatize
8 foster children and youth by subjecting them to conventions
9 dissimilar to other children. These rules are also often viewed as
10 unreasonable by prospective foster parents and therefore serve to
11 discourage them from becoming foster parents. Foster care
12 licensing requirements should be developed and implemented in
13 a manner that is consistent with current program best practices
14 and the goals and objectives of the Child Welfare System
15 Improvement and Accountability Act of 2001 (Chapter 678 of
16 the Statutes of 2001). Additionally, the Community Care
17 Licensing Division of the State Department of Social Service

1 spends needless time and resources investigating and enforcing
2 requirements that do little to promote the well-being of children.
3 The division's resources can more effectively be directed toward
4 requirements that enhance both the safety and well-being of
5 children in foster youth while encouraging more foster care
6 providers.

7 (b) It is therefore the intent of the Legislature to ensure that
8 youth placed in out-of-home foster care be given an opportunity
9 to live in an environment that resembles as closely as possible
10 nonfoster care families. It is the further intent of the Legislature
11 to ensure that all licensing statutes, regulations, and policies
12 serve to promote the well-being of children and youth in foster
13 care and who are leaving foster care and to ensure children and
14 youth are safe and protected in foster care.

15 SEC. 2. Section 1530.3 is added to the Health and Safety
16 Code, to read:

17 1530.3. (a) The Director of Social Services shall establish a
18 workgroup to review all state foster care licensing statutes,
19 regulations, and policies to determine whether those
20 requirements serve to not only protect the safety of children and
21 youth in foster care, but also to ensure that they do not
22 unnecessarily stigmatize foster youth and children by requiring
23 them to live in environments that are not ordinarily imposed by
24 reasonable and prudent parents. The workgroup shall also assess
25 whether the statutes, regulations, and policies unnecessarily
26 hinder the recruitment of qualified foster parents that can provide
27 effective substitute care services. Additionally, the workgroup
28 shall consider opportunities for creating efficiencies within the
29 community care licensing division of the department that do not
30 risk the safety of children and youth in foster care. For purposes
31 of this section, the workgroup shall review all state statutes,
32 regulations, and policies that establish facility, training, or
33 individual licensing standards and requirements for the
34 out-of-home care and placement of children and youth in foster
35 care to ensure their conformity with the requirements of this
36 section.

37 (b) The director shall convene the workgroup required by this
38 section no later than February 1, 2007. The members of the
39 workgroup shall include any departmental staff designated by the
40 director and representatives of the County Welfare Directors

1 Association, foster youth and former foster youth organizations,
2 foster parents, children's advocacy groups, consumer and service
3 provider organizations, legislative staff, and other interested
4 parties.

5 (c) No later than December 31, 2007, the workgroup shall
6 issue a report and make recommendations to the Legislature and
7 the director for statutory, regulatory, and policy changes that will
8 accomplish the objectives identified in subdivision (a).

9 SEC. 3. Section 1536.2 of the Health and Safety Code is
10 amended to read:

11 1536.2. (a) When a placement agency has placed a child with
12 a *relative caregiver, nonrelative extended family member,*
13 *licensed foster family home, or a foster family agency for*
14 *subsequent placement in a certified family home or group home,*
15 *the placement agency or foster family agency shall subsequently*
16 ~~*place in a licensed foster family home or certified family home*~~
17 *which shall ensure placement of the child in a home that best*
18 *meets the needs of the child.*

19 (b) *A home that best meets the needs of the child shall satisfy*
20 *all of the following criteria:*

21 (1) *The child's caregiver is able to meet the health, safety, and*
22 *well-being needs of the child.*

23 (2) *The child's caregiver is permitted to maintain the least*
24 *restrictive and most family-like environment that serves the needs*
25 *of the child.*

26 (3) *The child is permitted to engage in reasonable,*
27 *age-appropriate activities, including, but not limited to, the*
28 *following:*

29 (A) *Participating in athletic and recreational activities,*
30 *including water activities.*

31 (B) *Remaining in the home alone for short periods of time, if*
32 *deemed safe and appropriate.*

33 (C) *Having appropriate access to household and personal*
34 *cleaning products, such as laundry detergents and shampoos.*

35 (D) *Having appropriate access to over-the-counter medicines,*
36 *for the purpose of learning reasonable self-care.*

37 (E) *Other activities intended to foster a normal, family-like*
38 *environment for the foster child.*

39 (4) *The foster child's caregiver shall use a reasonable and*
40 *prudent parent standard to determine activities that are*

1 *age-appropriate and meet the needs of the child. Nothing in this*
2 *section shall be construed to permit a child's caregiver to permit*
3 *the child to engage in activities that carry an unreasonable risk*
4 *of harm, or subject the child to abuse or neglect.*

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution.