

Introduced by Senator Dutton

February 25, 2009

An act to amend Sections 1536.1, 1538.5, ~~1566.25~~, and 1567.3 of the Health and Safety Code, and to amend Section 740 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as amended, Dutton. Juvenile offenders: health facilities.

(1) Under existing law, before the placement of certain minors who are wards of the court due to a violation of law may be made in an out-of-county facility, the parole or probation officer in the county of residence is required to send written notice of the placement, including specified information, to the probation officer of the receiving county.

This bill would allow the notice to be made in writing, by fax, or electronic transmission. Additionally, the bill would require gang affiliation, as defined, to be included in the information sent to the receiving county. The bill would also require the community care facility in which the minor is being placed to obtain a copy of the notice from the probation officer and maintain it on file.

(2) Under existing law, if a ward of the court, as described above, who is placed in an out-of-county community care facility, has his or her board and care funded through the aid to families with dependent children foster care program, a plan for supervision and visitation is required to be developed by the county of residence.

This bill would require, in addition to the plan for supervision and visitation, that the sending county document information regarding any known gang affiliation or dangerous behavior that indicates the ward

may pose a safety concern to the receiving county. It would also require information related to gang affiliation to be included in a case plan required to be developed for the ward pursuant to existing law.

(3) Under existing law, a group home is required to annually report all incident reports involving a response by local law enforcement or emergency services personnel that were sent to a placement agency other than the county in which the group home is located.

This bill would expressly require a group home to immediately transmit a copy of all of these incident reports that concern runaway incidents.

~~(4) Under existing law, if a county of residence agrees to pay a placement county the actual costs of providing services to certain minors who are wards of the court due to a violation of law that are placed in a community care facility in the placement county, the county of residence shall agree to pay specified costs incurred by certain departments within the county of placement.~~

~~This bill would, additionally, require the county of residence to pay costs incurred by the sheriff and police department of the placement county.~~

~~(5)~~

(4) Existing law requires a placement agency, as defined, to notify the appropriate licensing agency of any known or suspected incidents, as specified, that would jeopardize the health and safety of residents at a community care facility.

This bill would add sexual abuse and a situation in which the residents are inadequately supervised to the list of reportable incidents.

~~(6)~~

(5) Because the bill would impose additional duties on the counties, it would create 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 1536.1 of the Health and Safety Code is
2 amended to read:

3 1536.1. (a) “Placement agency” means ~~any~~ a county probation
4 department, county welfare department, county social service
5 department, county mental health department, county public
6 guardian, general acute care hospital discharge planner or
7 coordinator, conservator pursuant to Part 3 (commencing with
8 Section 1800) of Division 4 of the Probate Code, conservator
9 pursuant to Chapter 3 (commencing with Section 5350) of Part 1
10 of Division 5 of the Welfare and Institutions Code, and regional
11 center for persons with developmental disabilities, ~~which~~ *that* is
12 engaged in finding homes or other places for placement of persons
13 of any age for temporary or permanent care.

14 (b) A placement agency shall place individuals only in licensed
15 community care facilities, facilities ~~which~~ *that* are exempt from
16 licensing under Section 1505 or if the facility satisfies subdivision
17 (c) of Section 362 of the Welfare and Institutions Code, or with a
18 foster family agency.

19 (c) No employee of a placement agency shall place, refer, or
20 recommend placement of a person in a facility operating without
21 a license, unless the facility is exempt from licensing under Section
22 1505 or unless the facility satisfies subdivision (c) of Section 362
23 of the Welfare and Institutions Code. Violation of this subdivision
24 is a misdemeanor.

25 (d) Any employee of a placement agency who knows, or
26 reasonably suspects, that a facility ~~which~~ *that* is not exempt from
27 licensing is operating without a license shall report the name and
28 address of the facility to the department. Failure to report as
29 required by this subdivision is a misdemeanor.

30 (e) The department shall investigate any report filed under
31 subdivision (d). If the department has probable cause to believe
32 that the facility ~~which~~ *that* is the subject of the report is operating
33 without a license, the department shall investigate the facility
34 within 10 days after receipt of the report.

35 (f) A placement agency shall notify the appropriate licensing
36 agency of known or suspected incidents that would jeopardize the
37 health or safety of residents in a community care facility.

1 Reportable incidents include, but are not limited to, all of the
2 following:

3 (1) Incidents of physical or sexual abuse.

4 (2) A violation of personal rights.

5 (3) A situation in which a facility is unclean, unsafe, unsanitary,
6 or in poor condition.

7 (4) A situation in which a facility has insufficient personnel or
8 incompetent personnel on duty.

9 (5) A situation in which residents experience mental or verbal
10 abuse.

11 (6) A situation in which residents are inadequately supervised.

12 SEC. 2. Section 1538.5 of the Health and Safety Code is
13 amended to read:

14 1538.5. (a) (1) Not less than 30 days prior to the anniversary
15 of the effective date of a residential community care facility license,
16 except licensed foster family homes, the department may transmit
17 a copy to the board members of the licensed facility, parents, legal
18 guardians, conservators, clients' rights advocates, or placement
19 agencies, as designated in each resident's placement agreement,
20 of all inspection reports given to the facility by the department
21 during the past year as a result of a substantiated complaint
22 regarding a violation of this chapter relating to resident abuse and
23 neglect, food, sanitation, incidental medical care, and residential
24 supervision. During that one-year period the copy of the notices
25 transmitted and the proof of the transmittal shall be open for public
26 inspection.

27 (2) The department may transmit copies of the inspection reports
28 referred to in paragraph (1) concerning group homes, as defined
29 by regulations of the department, to the county in which a group
30 home facility is located, if requested by that county.

31 (3) A group home facility shall maintain, at the facility, a copy
32 of all licensing reports for the past three years that would be
33 accessible to the public through the department, for inspection by
34 placement officials, current and prospective facility clients, and
35 these clients' family members who visit the facility.

36 (b) The facility operator, at the expense of the facility, shall
37 transmit a copy of all substantiated complaints, by certified mail,
38 to those persons described pursuant to paragraph (1) of subdivision
39 (a) in the following cases:

1 (1) In the case of a substantiated complaint relating to resident
2 physical or sexual abuse, the facility shall have three days from
3 the date the facility receives the licensing report from the
4 department to comply.

5 (2) In the case in which a facility has received three or more
6 substantiated complaints relating to the same violation during the
7 past 12 months, the facility shall have five days from the date the
8 facility receives the licensing report to comply.

9 (c) A residential facility shall retain a copy of the notices
10 transmitted pursuant to subdivision (b) and proof of their
11 transmittal by certified mail for a period of one year after their
12 transmittal.

13 (d) If a residential facility to which this section applies fails to
14 comply with this section, as determined by the department, the
15 department shall initiate civil penalty action against the facility in
16 accordance with this article and the related rules and regulations.

17 (e) Not less than 30 days prior to the anniversary of the effective
18 date of the license of any group home facility, as defined by
19 regulations of the department, at the request of the county in which
20 the group home facility is located, a group home facility shall
21 transmit to the county a copy of all incident reports prepared by
22 the group home facility and transmitted to a placement agency, as
23 described in subdivision (f) of Section 1536.1, in a county other
24 than the county in which the group home facility is located that
25 involved a response by local law enforcement or emergency
26 services personnel, including runaway incidents. The county shall
27 designate an official for the receipt of the incident reports and shall
28 notify the group home of the designation. Prior to transmitting
29 copies of incident reports to the county, the group home facility
30 shall redact the name of any child referenced in the incident reports,
31 and other identifying information regarding any child referenced
32 in the reports. The county may review the incident reports to ensure
33 that the group home facilities have taken appropriate action to
34 ensure the health and safety of the residents of the facility.

35 (f) The department shall notify the residential community care
36 facility of its obligation when it is required to comply with this
37 section.

38 ~~SEC. 3. Section 1566.25 of the Health and Safety Code is~~
39 ~~amended to read:~~

1 ~~1566.25.— If a county of residence agrees to pay a placement~~
2 ~~county the costs of providing services to a minor pursuant to~~
3 ~~subdivision (a) of Section 740 of the Welfare and Institutions Code,~~
4 ~~all of the following shall apply:~~

5 ~~(a) The county of residence shall agree to pay the placement~~
6 ~~county the actual costs of providing services to a child placed in~~
7 ~~a community care facility outside his or her county of residence~~
8 ~~by a placement agency, as defined in Section 1536.1, that are~~
9 ~~incurred by the probation department, sheriff's department, police~~
10 ~~department, social services department, health department, or~~
11 ~~mental health department of the placement county for which the~~
12 ~~placement county is not otherwise reimbursed.~~

13 ~~(b) Claims made by the county of placement to the county of~~
14 ~~residency pursuant to subdivision (a) shall include documentation~~
15 ~~and shall be paid within 30 days of submission of these claims.~~

16 ~~(c) For the purposes of this section, the county from where the~~
17 ~~child was placed in the community care facility shall be considered~~
18 ~~the county of residency.~~

19 ~~SEC. 4.~~

20 ~~SEC. 3.~~ Section 1567.3 of the Health and Safety Code is
21 amended to read:

22 1567.3. (a) No licensed community care facility may receive
23 a ward of the juvenile court as described in Section 602 of the
24 Welfare and Institutions Code until the probation officer of the
25 county in which the community care facility is located has received
26 notice, in writing, by fax, or electronically transmitted, of the
27 placement, as prescribed in Section 740 of the Welfare and
28 Institutions Code, including the name of the ward, the juvenile
29 record of the ward, including any known prior offenses or gang
30 affiliation, and the ward's county of residence, from the probation
31 officer of the county making the placement, or, in the case of a
32 ~~Youth Authority ward~~ *ward of the Department of Corrections and*
33 ~~Rehabilitation, Division of Juvenile Facilities,~~ the parole officer
34 in charge of the case. The licensed community care facility shall
35 obtain a copy of the notice from the probation officer of the county
36 making the placement and shall maintain a copy on file as evidence
37 of compliance with this section.

38 (b) The probation officer of a county making an out-of-county
39 placement of a ward of the juvenile court as described in Section
40 602 of the Welfare and Institutions Code shall notify the probation

1 officer of the county in which the community care facility is located
2 at least 24 hours prior to receipt of the ward by the licensed
3 community care facility. If the ward is received on a weekend or
4 holiday, notification shall be made by the end of the next business
5 day.

6 ~~SEC. 5.~~

7 *SEC. 4.* Section 740 of the Welfare and Institutions Code is
8 amended to read:

9 740. (a) Any minor adjudged to be a ward of the court on the
10 basis that he or she is a person described in Section 602 and who
11 is placed in a community care facility shall be placed in a
12 community care facility within his or her county of residence,
13 unless both of the following apply:

14 (1) He or she has identifiable needs requiring specialized care
15 that cannot be provided in a local facility or his or her needs dictate
16 physical separation from his or her family.

17 (2) The county of residence agrees to pay the placement county
18 the costs of providing services to the minor, pursuant to Section
19 1566.25 of the Health and Safety Code.

20 (b) (1) Before the placement of a minor adjudged to be a ward
21 of the court on the basis that he or she is a person described in
22 Section 602 in any community care facility outside the ward's
23 county of residence, the probation officer of the county making
24 the placement, or in the case of a ~~Youth Authority ward~~ *ward of*
25 *the Department of Corrections and Rehabilitation, Division of*
26 *Juvenile Facilities*, the parole officer in charge of his or her case,
27 shall send, via mail, delivery, fax, or electronically, written notice
28 of the placement, including the name of the ward, the juvenile
29 record of the ward (including any known prior offenses), and the
30 ward's county of residence, to the probation officer of the county
31 in which the community care facility is located. It is the intention
32 of the Legislature, in regard to this requirement, that the probation
33 officer of the county making the placement, or in the case of a
34 ~~Youth Authority ward~~ *ward of the Department of Corrections and*
35 *Rehabilitation, Division of Juvenile Facilities*, the parole officer
36 in charge of his or her case, shall make his or her best efforts to
37 send, via mail, fax, or electronically, or to hand deliver, the notice
38 at least 24 hours prior to the time the placement is made. When
39 that placement is terminated, the probation officer of the county
40 making the placement, or in the case of a ~~Youth Authority ward~~

1 ward of the Department of Corrections and Rehabilitation, Division
2 of Juvenile Facilities, the parole officer in charge of his or her
3 case, shall send notice thereof to any person or agency receiving
4 notification of the placement.

5 (2) When it has been determined that it is necessary for a ward
6 whose board and care is funded through the Aid to Families with
7 Dependent Children-Foster Care program to be placed in a county
8 other than the ward's parents' or guardians' county of residence,
9 the specific reason the out-of-county placement is necessary shall
10 be documented in the ward's case plan. If the reason is lack of
11 resources in the sending county to meet the specific needs of the
12 ward, those specific resources needs shall be documented in the
13 case plan.

14 (3) When it has been determined that a ward whose board and
15 care is funded through the Aid to Families with Dependent
16 Children-Foster Care program is to be placed out-of-county and
17 that the sending county is to maintain responsibility for supervision
18 and visitation of the ward, the sending county shall develop a plan
19 of supervision and visitation activities to be performed, and shall
20 specify that the sending county is responsible for performing those
21 activities. In addition to the plan of supervision and visitation, the
22 sending county shall document information regarding known or
23 suspected gang affiliation or dangerous behavior of the ward that
24 indicates the ward may pose a safety concern in the receiving
25 county. The sending county shall send to the receiving county a
26 copy of the plan of supervision and visitation, in addition to the
27 notice of placement required in paragraph (1), prior to placement
28 of the ward. If placement occurs on a holiday or weekend, the plan
29 of supervision and visitation and the notice of placement shall be
30 provided to the receiving county on or before the end of the next
31 business day.

32 (4) When it has been determined that a ward whose placement
33 is funded through the Aid to Families with Dependent
34 Children-Foster Care program is to be placed out-of-county and
35 the sending county plans that the receiving county shall be
36 responsible for the supervision and visitation of the ward, the
37 sending county shall develop a formal agreement between the
38 sending and receiving counties. The formal agreement shall specify
39 the supervision and visitation to be provided the ward, and shall
40 specify that the receiving county is responsible for providing the

1 supervision and visitation. The formal agreement shall be approved
2 and signed by the sending and receiving counties prior to placement
3 of the ward in the receiving county. Additionally, the notice of
4 placement required by paragraph (1) shall be provided to the
5 receiving county prior to placement of the ward in that county.
6 Upon completion of the case plan, the sending county shall provide
7 a copy of the completed case plan to the receiving county. The
8 case plan shall include information regarding known or suspected
9 gang affiliation or dangerous behavior of the ward that indicates
10 the ward may pose a safety concern for the receiving county.

11 (5) The probation department of a receiving county that has a
12 group home in which a minor is placed by the probation department
13 of another county, after adjudication of the minor for any felony
14 offense, shall disclose to the sheriff of the receiving county or to
15 the municipal police department of the city in which the group
16 home is located, the name of the minor, the felony offense or
17 offenses for which the minor has been adjudicated, and the address
18 of the group home. This information shall be utilized only for law
19 enforcement purposes and may not be utilized in a manner that is
20 inconsistent with the rehabilitative program in which the minor
21 has been placed or with the progress the minor may be making in
22 the placement program. Notwithstanding any other ~~provision of~~
23 law, the information provided by the probation department to a
24 law enforcement agency under this paragraph may be provided to
25 other law enforcement personnel for the limited law enforcement
26 purposes described in this paragraph, but shall otherwise remain
27 confidential.

28 (c) Notwithstanding subdivision (e) of Section 1538.5 of the
29 Health and Safety Code, the group home facility shall immediately
30 transmit a copy of all incident reports concerning a ward placed
31 by the sending county that involved a response by local law
32 enforcement or emergency services personnel, including runaway
33 incidents, to the probation officer of the receiving county. The
34 report shall include identifying information about the ward.

35 (d) A minor, the parent or guardian of ~~any~~ a minor, and counsel
36 representing a minor or the parent or guardian of a minor may
37 petition the juvenile court for the review of a placement decision
38 concerning the minor made by the probation officer pursuant to
39 subdivision (a). The petition shall state the petitioner's relationship
40 to the minor and shall set forth in concise language the grounds

1 on which the review is sought. The court shall order that a hearing
2 shall be held on the petition and shall give prior notice, or cause
3 prior notice to be given, to the persons and by the means prescribed
4 by Section 776, and, in instances in which the means of giving
5 notice is not prescribed by that section, then by any means as the
6 court prescribes.

7 (e) If a minor is placed in a community care facility out of his
8 or her county of residence and is then arrested and placed in
9 juvenile hall pending a jurisdictional hearing, the county of
10 residence shall pay to the probation department of the county of
11 placement all reasonable costs resulting directly from the minor's
12 stay in the juvenile hall, provided that these costs exceed one
13 hundred dollars (\$100).

14 (f) If, as a result of the hearing in subdivision (d), the minor is
15 remanded back to his or her county of residence, the county of
16 residence shall pay to the probation department of the county of
17 placement, in addition to any payment made pursuant to
18 subdivision (e), all reasonable costs resulting directly from
19 transporting the minor to the county of residency, provided that
20 these costs exceed one hundred dollars (\$100).

21 (g) Claims made by the probation department in the county of
22 placement to the county of residence, pursuant to subdivisions (e)
23 and (f), shall be paid within 30 days of the submission of these
24 claims and the probation department in the county of placement
25 shall bear the remaining expense.

26 (h) As used in this section:

27 (1) "Community care facility" shall be defined as provided in
28 Section 1502 of the Health and Safety Code.

29 (2) "Gang affiliation" shall have the same meaning as defined
30 for data entry into the CalGang system.

31 (3) "Group home" has the same meaning as provided in
32 paragraph (1) of subdivision (g) of Section 80001 of Title 22 of
33 the California Code of Regulations.

34 ~~SEC. 6.~~

35 *SEC. 5.* If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O