

AMENDED IN SENATE MAY 28, 2009  
AMENDED IN SENATE APRIL 30, 2009  
AMENDED IN SENATE APRIL 16, 2009  
AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 352**

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**Introduced by Senator Dutton**

February 25, 2009

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An act to amend Sections 1536.1, 1538.5, 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. *A violation of these provisions is a misdemeanor.*

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 that a copy of the notice be sent, at the same time it is sent to the receiving county, to the community care facility where the ward is being placed, and would require the community care facility to maintain a copy of the notice 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, at the request of the probation department of the county in which the group home facility is located, to notify a probation official, as specified, of unusual incidents, including those that concern runaway incidents.

This bill would also require the requesting probation department to maintain the confidentiality of any identifying information about the ward contained in the notification and prohibit the probation department from sharing, transferring, or otherwise releasing the identifying information to a third party unless otherwise authorized by state or federal law.

(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. *A violation of these provisions is a misdemeanor*

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

(5) Because the bill would impose additional duties on the counties *and create a new crime*, 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.

*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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

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 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, that is engaged
- 12 in finding homes or other places for placement of persons of any
- 13 age for temporary or permanent care.
- 14 (b) A placement agency shall place individuals only in licensed
- 15 community care facilities, facilities that are exempt from licensing
- 16 under Section 1505 or if the facility satisfies subdivision (c) of
- 17 Section 362 of the Welfare and Institutions Code, or with a foster
- 18 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

1 of the Welfare and Institutions Code. Violation of this subdivision  
2 is a misdemeanor.

3 (d) Any employee of a placement agency who knows, or  
4 reasonably suspects, that a facility that is not exempt from licensing  
5 is operating without a license shall report the name and address of  
6 the facility to the department. Failure to report as required by this  
7 subdivision is a misdemeanor.

8 (e) The department shall investigate any report filed under  
9 subdivision (d). If the department has probable cause to believe  
10 that the facility that is the subject of the report is operating without  
11 a license, the department shall investigate the facility within 10  
12 days after receipt of the report.

13 (f) A placement agency shall notify the appropriate licensing  
14 agency of known or suspected incidents that would jeopardize the  
15 health or safety of residents in a community care facility.  
16 Reportable incidents include, but are not limited to, all of the  
17 following:

18 (1) Incidents of physical or sexual abuse.

19 (2) A violation of personal rights.

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

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

24 (5) A situation in which residents experience mental or verbal  
25 abuse.

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

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

29 1538.5. (a) (1) Not less than 30 days prior to the anniversary  
30 of the effective date of a residential community care facility license,  
31 except licensed foster family homes, the department may transmit  
32 a copy to the board members of the licensed facility, parents, legal  
33 guardians, conservators, clients' rights advocates, or placement  
34 agencies, as designated in each resident's placement agreement,  
35 of all inspection reports given to the facility by the department  
36 during the past year as a result of a substantiated complaint  
37 regarding a violation of this chapter relating to resident abuse and  
38 neglect, food, sanitation, incidental medical care, and residential  
39 supervision. During that one-year period the copy of the notices

1 transmitted and the proof of the transmittal shall be open for public  
2 inspection.

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

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

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

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

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

24 (c) A residential facility shall retain a copy of the notices  
25 transmitted pursuant to subdivision (b) and proof of their  
26 transmittal by certified mail for a period of one year after their  
27 transmittal.

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

32 (e) Not less than 30 days prior to the anniversary of the effective  
33 date of the license of any group home facility, as defined by  
34 regulations of the department, at the request of the county in which  
35 the group home facility is located, a group home facility shall  
36 transmit to the county a copy of all incident reports prepared by  
37 the group home facility and transmitted to a placement agency, as  
38 described in subdivision (f) of Section 1536.1, in a county other  
39 than the county in which the group home facility is located that  
40 involved a response by local law enforcement or emergency

1 services personnel, including runaway incidents. The county shall  
2 designate an official for the receipt of the incident reports and shall  
3 notify the group home of the designation. Prior to transmitting  
4 copies of incident reports to the county, the group home facility  
5 shall redact the name of any child referenced in the incident reports,  
6 and other identifying information regarding any child referenced  
7 in the reports. The county may review the incident reports to ensure  
8 that the group home facilities have taken appropriate action to  
9 ensure the health and safety of the residents of the facility.

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

13 SEC. 3. Section 1567.3 of the Health and Safety Code is  
14 amended to read:

15 1567.3. (a) No licensed community care facility may receive  
16 a ward of the juvenile court as described in Section 602 of the  
17 Welfare and Institutions Code until the probation officer of the  
18 county in which the community care facility is located has received  
19 notice, in writing, by fax, or electronically transmitted, of the  
20 placement, as prescribed in Section 740 of the Welfare and  
21 Institutions Code, including the name of the ward, the juvenile  
22 record of the ward, including any known prior offenses or gang  
23 affiliation, and the ward's county of residence, from the probation  
24 officer of the county making the placement, or, in the case of a  
25 ward of the Department of Corrections and Rehabilitation, Division  
26 of Juvenile Facilities, the parole officer in charge of the case. The  
27 licensed community care facility shall maintain a copy of this  
28 notice on file as evidence of compliance with this section.

29 (b) (1) The probation officer of a county making an  
30 out-of-county placement of a ward of the juvenile court as  
31 described in Section 602 of the Welfare and Institutions Code shall  
32 notify the probation officer of the county in which the community  
33 care facility is located at least 24 hours prior to receipt of the ward  
34 by the licensed community care facility. If the ward is received on  
35 a weekend or holiday, notification shall be made by the end of the  
36 next business day.

37 (2) A probation officer of a county making an out-of-county  
38 placement of a ward of the juvenile court who makes a notification  
39 pursuant to paragraph (1) shall also send, at that time, a copy of

1 the notification to the community care facility where the ward is  
2 being placed.

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

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

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

13 (2) The county of residence agrees to pay the placement county  
14 the costs of providing services to the minor, pursuant to Section  
15 1566.25 of the Health and Safety Code.

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

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

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

(4) When it has been determined that a ward whose placement is funded through the Aid to Families with Dependent Children-Foster Care program is to be placed out-of-county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the ward, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the ward, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the ward in the receiving county. Additionally, the notice of placement required by paragraph (1) shall be provided to the



1 receiving county prior to placement of the ward in that county.  
2 Upon completion of the case plan, the sending county shall provide  
3 a copy of the completed case plan to the receiving county. The  
4 case plan shall include information regarding known or suspected  
5 gang affiliation or dangerous behavior of the ward that indicates  
6 the ward may pose a safety concern for the receiving county.

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

24 (c) Notwithstanding subdivision (e) of Section 1538.5 of the  
25 Health and Safety Code, at the request of the probation department  
26 of the county in which the group home facility is located, the group  
27 home shall notify a probation official designated by the probation  
28 department to receive notifications pursuant to this subdivision,  
29 of unusual incidents concerning a ward placed by the sending  
30 county that involved a response by local law enforcement or  
31 emergency services personnel, including runaway incidents. The  
32 notification shall include identifying information about the ward.  
33 A group home facility shall notify the designated probation official  
34 of a requesting probation department of an unusual incident no  
35 later than the applicable deadline imposed by law or department  
36 regulation for a group home facility to notify the licensing agency  
37 of the unusual incident. The requesting probation department shall  
38 maintain the confidentiality of any identifying information about  
39 the ward contained in the notification and shall not share, transfer,

1 or otherwise release the identifying information to a third party  
2 unless otherwise authorized by state or federal law.

3 (d) A minor, the parent or guardian of a minor, and counsel  
4 representing a minor or the parent or guardian of a minor may  
5 petition the juvenile court for the review of a placement decision  
6 concerning the minor made by the probation officer pursuant to  
7 subdivision (a). The petition shall state the petitioner's relationship  
8 to the minor and shall set forth in concise language the grounds  
9 on which the review is sought. The court shall order that a hearing  
10 shall be held on the petition and shall give prior notice, or cause  
11 prior notice to be given, to the persons and by the means prescribed  
12 by Section 776, and, in instances in which the means of giving  
13 notice is not prescribed by that section, then by any means as the  
14 court prescribes.

15 (e) If a minor is placed in a community care facility out of his  
16 or her county of residence and is then arrested and placed in  
17 juvenile hall pending a jurisdictional hearing, the county of  
18 residence shall pay to the probation department of the county of  
19 placement all reasonable costs resulting directly from the minor's  
20 stay in the juvenile hall, provided that these costs exceed one  
21 hundred dollars (\$100).

22 (f) If, as a result of the hearing in subdivision (d), the minor is  
23 remanded back to his or her county of residence, the county of  
24 residence shall pay to the probation department of the county of  
25 placement, in addition to any payment made pursuant to  
26 subdivision (e), all reasonable costs resulting directly from  
27 transporting the minor to the county of residency, provided that  
28 these costs exceed one hundred dollars (\$100).

29 (g) Claims made by the probation department in the county of  
30 placement to the county of residence, pursuant to subdivisions (e)  
31 and (f), shall be paid within 30 days of the submission of these  
32 claims and the probation department in the county of placement  
33 shall bear the remaining expense.

34 (h) As used in this section:

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

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

1 (3) “Group home” has the same meaning as provided in  
2 paragraph (1) of subdivision (g) of Section 80001 of Title 22 of  
3 the California Code of Regulations.

4 ~~SEC. 5. If the Commission on State Mandates determines that~~  
5 ~~this act contains costs mandated by the state, reimbursement to~~  
6 ~~local agencies and school districts for those costs shall be made~~  
7 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
8 ~~4 of Title 2 of the Government Code.~~

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

18 *However, if the Commission on State Mandates determines that*  
19 *this act contains other costs mandated by the state, reimbursement*  
20 *to local agencies and school districts for those costs shall be made*  
21 *pursuant to Part 7 (commencing with Section 17500) of Division*  
22 *4 of Title 2 of the Government Code.*