

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 2802 (Maienschein) – As Amended April 2, 2024

SUBJECT: Transitional housing placement providers

SUMMARY: Requires counties, when operating the Transitional Housing Placement (THP) program, to allow providers and participants to make best matches to allow for gender flexibility. Updates the minimum requirements for regulations governing THP providers to allow participants to share units and bedrooms with siblings and co-parents regardless of gender identity.

Specifically, **this bill:**

- 1) Adds to the persons a nonminor dependent (NMD) THP participant is allowed to share a bedroom or unit in a THP program with to include the following:
 - a) A nonparticipant sibling, or co-parent, as approved by the provider on a case-by-case basis, as specified by the California Department of Social Services (CDSS); and,
 - b) The participant's co-parent, and participant sibling.
- 2) Adds to the persons a minor THP participant is allowed to share a bedroom or unit in a transitional housing placement to include the following:
 - a) A nonparticipant sibling, or co-parent, as approved by the provider on a case-by-case basis, as specified by CDSS.
 - b) The participant's co-parent, and participant sibling;
- 3) Requires a provider to give priority to THP participants and allow a current program participant residing within a unit to reject inclusion of a nonparticipant into their existing unit.
- 4) Requires all counties and program contracts to allow both minor and NMD individual program participants to share bedrooms, bathrooms, and units together, regardless of gender identity.
- 5) Requires county program contracts to allow providers and participants to make best matches to allow for gender flexibility.
- 6) Permits CDSS to implement, interpret, or make specific the changes made by these provisions by means of all-county letters or similar instructions until regulations are adopted. Stipulates these all-county letters or similar written instructions shall have the same force and effect as regulations until the adoption of regulations.

EXISTING LAW:

- 1) Requires, in order to be licensed as a THP provider and be eligible for payment of Aid to Families of Dependent Children-Foster Care (AFDC-FC) benefits, an applicant to obtain certification from the applicable county specifying whether the facility will serve foster youth at between the ages of 16 and 18 years of age, NMDs, or both, as follows:

- a) A program serving foster children at least 16 years of age and not more than 18 years of age shall obtain a certification entitled “Transitional Housing Placement program for minor foster children.”
 - b) A program serving NMDs at least 18 years old and not more than 21 years old shall obtain a certification entitled a “Transitional Housing Placement program for nonminor dependents.” (Welfare and Institutions Code [WIC] §16522.1(a))
- 2) Requires the certification for the THP program for minor foster children to confirm that the program provides for all of the following:
- a) Admission criteria for participants in the program, including, but not limited to, consideration of the participant’s age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience;
 - b) Requires CDSS to review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in existing law;
 - c) Strict employment criteria that include a consideration of the employee’s age, drug or alcohol history, and experience in working with persons in this age group;
 - d) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills;
 - e) A detailed plan for monitoring the placement of persons under the licensee’s care;
 - f) A contract between the participant and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements;
 - g) An allowance to be provided to each participant in the program; and in the case of a participant living independently, requires this allowance to be sufficient for the participant to purchase food and other necessities;
 - h) A system for payment for utilities, telephone, and rent; and,
 - i) Policies regarding all of the following: education requirements; work expectations; savings requirements; personal safety; visitors; emergencies; medical problems; disciplinary measures; childcare; pregnancy; curfew; housing unit cleanliness; use of utilities and telephone; budgeting; care of furnishings; decorating of housing units; cars; lending or borrowing money; unauthorized purchases; dating; grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways; and, the approval of any nonparticipant roommates. (WIC §16522.1(b))

- 3) States that no person in the State of California, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. (Government Code § 11135)
- 4) Requires CDSS to adopt regulations to govern licensed THP providers and sets forth minimum provisions to be included. (Health and Safety Code § 1559.110 (g))

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background: *Transitional Housing Placement Program:* The THP program for minors is a type of foster care placement, licensed by CDSS, for youth between 16 and 18 years of age. CDSS states that the goal of this program is to help participants emancipate successfully by providing a safe environment for youth, while learning skills that can promote self-sufficiency.

Participants are allowed to live alone, with CDSS approval, or with roommates in apartments or single-family dwellings, where a staff member from the housing provider lives on-site to provide supervision and assistance. The THP program for minors also provides supportive services such as, educational guidance, employment counseling, and assistance reaching emancipation goals outlined in a participant's Transitional Independent Living Plan (TILP), the emancipation readiness portion of a youth's case plan.

California offers the Transitional Housing Placement for Nonminor Dependents (THP-NMD) program for youth in extended foster care between 18 and 21 years of age, which provides NMDs with a placement option that provides transitional housing and supportive housing. Under THP-NMD, placement settings can include: host families where a youth lives with an adult who is selected and approved by the THP provider; a single site where an NMD lives in an apartment, condominium, or a single family home rented or leased by the housing provider (one or more adult employees of the housing provider lives on site); or, a remote site placement where the NMD lives in a single housing unit, such as an apartment or single family home, that is rented or leased by the housing provider in order to enable the youth to live independently, but still receive regular supervision and case management services.

The THP-NMD, formerly known as THP+FC, was created by AB 12 (Beall), Chapter 559, Statutes of 2010, and provides housing placement options for NMDs in extended foster care. This placement option provides transitional housing and supportive services based on the youth's TILP. CDSS states that the goal of this type of placement is to offer supportive services to assist NMDs in developing skills needed to transition to independent living, which may include assistance with meeting educational goals, obtaining employment, and learning financial management, relationship, and daily living skills.

There are several housing models under the THP-NMD program and providers are permitted to offer the following:

- Host family, where the NMD lives with an adult who has been approved by the THP provider

- Staffed site, where the NMD lives in an apartment, condominium, or single-family dwelling, rented or leased by the THP-NMD provider, in which one or more adult employees of the THP-NMD provider resides on site
- Remote site, where the NMD lives in a single housing unit rented or leased by the housing provider. The NMD is allowed to be a co-lessee on the lease. Although the NMD lives independently, they still receive regular supervision from the provider.

THP-Plus is a transitional housing program for young adults who exited foster care, including probation-supervised youth, on or after their 18th birthday. This program offers housing and supportive services for 36 cumulative months or until the age of 25, whichever comes first. The housing models and services offered are similar to those offered in other THP programs, but the rules of the program are designed to be age appropriate for young adults. CDSS states the goal of THP-plus is to provide a safe living environment, while helping participants develop the life skills needed to live independently. The NMD is asked to develop a TILP to assist in identifying and detailing the goals and objectives necessary to transition into adulthood.

There are several housing models under the THP-Plus program and providers are permitted to offer the following residential units:

- Apartments
- Single-family dwellings
- Condominiums
- College dormitories
- Host family models

As a result of the enactment Family First Prevention Services Act in 2018, the THP program no longer meets the Federal Title IV-E and state foster care definition for federal reimbursement. This means that if a county chooses to place a youth in this type of placement setting, the county is required to use only county funds to cover the rates/costs, which are set by each county.

This bill clarifies that THP participants can live with a sibling or co-parent regardless of their gender identity. While expanding the types of people permitted to be placed in a THP, the bill also allows current program recipients to reject inclusion of a nonparticipant into their existing unit, while specifying that program providers must give priority to program recipients when it comes to placements.

CDSS Regulations for the THP Program: Existing law requires CDSS to adopt regulations to govern THP program providers and are required to be age-appropriate and recognize that NMDs should be subject to fewer restrictions than those who are still minors. Statute enumerates the minimum requirements that the regulations should provide for. Currently, statute does not specify that siblings or co-parents are allowed to share a bedroom or unit in a THP placement and regulations state that THP participants of different sexes shall not share a bedroom unless: it is a minor parent sharing a bedroom with their child of a different sex, or a licensee is permitting a THP participant to share a bedroom consistent with their gender identity regardless of the gender

or sex listed on the court or child welfare documents. This bill aligns statute with the regulations while also providing specificity regarding the right for participants to have priority in placements should they move from one THP program to another, and to reject the inclusion of a non-participant should they not want to share a room or unit with someone.

The most current regulations (Title 22 California Code of Regulations, Division 6, Chapter 7) governing THP programs were effective as of September 14, 2021, and according to § 86187, state the following:

- (a) The licensee shall ensure the THPP participant living unit meets, at a minimum, the following requirements:
 - (1) No more than two THPP participants shall share a bedroom.
 - (2) THPP participants of different sexes shall not share a bedroom unless:
 - (A) A minor parent may share a bedroom with their child of a different sex.
 - (B) A licensee is permitting a THPP participant to share a bedroom consistent with their gender identity regardless of the gender or sex listed on the court or child welfare documents.
 - (3) No area commonly used for other purposes shall be used as a bedroom.
 - (A) Such areas include but are not limited to halls, stairways, unfinished attics or basements, garages, storage areas or sheds, or similar detached buildings.
 - (4) No bedroom shall be used as a public or general passageway to another room.
- (b) A THPP participant may share a bedroom with his or her own child(ren), regardless of the ages of the participant and his or her own child(ren).
 - (1) THPP participants shall not share a bedroom with an adult who is not a THPP participant unless the adult is a THP-Plus participant.
 - (2) The licensing agency may approve an exception when all of the following conditions are met:
 - (A) Two minor THPP participants have been sharing a bedroom and one of the participants turns 18 years of age;
 - (B) One of the participants otherwise meets all of the requirements of Welfare and Institutions Code Section 11403;
 - (C) Both are participants;
 - (D) The participants remain compatible.
 - (3) Subsections 86187(a)(1) through 86187(b)(4) apply to all bedrooms used by all persons residing in the THPP, including the participants in placement and their own children, and the THPP employees.

(4) THPP employees shall not share a bedroom with THPP participants.

In addition to updating statute to align with current regulations, this bill also requires all counties and program contracts to allow individual THP program participants to share bedrooms, bathrooms, and units together, regardless of gender identity. County program contracts are further required to allow providers and participants to make the best matches to allow for gender flexibility in the THP program.

Author’s Statement: According to the Author, “In California, with increasing awareness and acceptance of diverse gender identities, enforcing strict rules based solely on assigned gender may pose difficulties for gender non-conforming individuals, siblings who are not of the same gender, and co-parenting youth. To maximize the opportunity for foster youth to succeed, regardless of their gender identity, we need to ensure that foster youth who are aging out of the system are set up for success. [This bill], by emphasizing flexibility in gender identification for housing arrangements within Transitional Housing Placement (THP) Programs, helps aligns with evolving societal norms and ensures that transitional housing remains a space where all individuals, regardless of their gender identity, parental status, or family dynamic can access support while maintaining a sense of dignity and agency.”

Equity Implications: According to a 2024 report entitled *"Federal Data Demonstrates the Need for Safe, Supportive, and Specific Housing for Gender-Expansive People,"* between 2019 and 2023, the combined number of gender non-binary and gender-questioning people experiencing homelessness increased by at least 183%. Gender-expansive youth of color are twice as likely to experience homelessness compared with their white counterparts. THP programs are a vital part of California's strategy to tackle homelessness among foster youth, who are disproportionately part of the lesbian, gay, bisexual, transgender, queer and/or questioning, community. A critical component of these programs is the provision of housing along with robust social services tailored to prepare participants for independent living and coaching of necessary life skills for current and former foster youth as they transition to adulthood and independence. Advocates have raised concerns about current strict, binary gender-based rules for sharing units, which inadvertently lead to exclusion and discrimination. Some county vacancy lists and contracted slots, designate housing and program vacancies as "male" and "female" for THP programs. To remedy this, this bill seeks to require all counties to allow for gender identification flexibility in contracts and vacancies to allow for providers, counties, and individual program participants to jointly decide on best unit-sharing matches. A program contract requiring a participant to identify as the same gender as the person with whom the participant shares a unit or bathrooms, limits housing at a time when more flexibility and solutions are needed.

RELATED AND PRIOR LEGISLATION:

AB 1979 (Friedman), Chapter 141, Statutes of 2020, expanded the definition of a supervised independent living setting to include a transitional living setting that is approved by the county to support youth who are entering or re-entering care, or who are transitioning between placements. AB 1979 specified that the transitional housing could not include a youth homelessness prevention center, or an adult homeless shelter in order to ensure that the housing provided to youth is stable and not temporary.

AB 531 (Friedman) of 2019, would have allowed certain approved caregivers of youth in extended foster care to convert to a host family without additional certification, would have

required counties to examine their ability to meet the emergency housing needs of NMDs, and would have allowed counties, upon appropriation, to request funds for the purpose of providing housing navigation services to youth. *AB 531 was held on the Senate Appropriations Committee suspense file.*

AB 612 (Mitchell), Chapter 731, Statutes of 2017, made a number of changes to the program rules and educational requirements for THP programs available to minors and NMDs in foster care.

AB 1712 (Beall), Chapter 846, Statutes of 2012, enabled a dependent youth to continue receiving foster care, Kinship Guardian Assistance Payments and other funding after 18 years of age, if they are NMDs, and added THP-NMD Foster Care to the list of programs licensed by CDSS.

AB 12 (Beall), Chapter 559, Statutes of 2010, the California Fostering Connections to Success Act, enabled youth aging out of foster care to opt into extended foster care between 18 and 21 years of age.

REGISTERED SUPPORT / OPPOSITION:

Support

California Alliance of Child and Family Services (Sponsor)

Aspiranet

Association of Community Human Service Agencies

California Alliance of Caregivers

Child Abuse Prevention Center

Children's Institute

Didi Hirsch Mental Health Services

Edgewood Center for Children and Families

Equality California

First Place for Youth

Lincoln Families

Redwood Community Services

Safe Place for Youth

Side by Side

Sycamores

Walden Family Services

Yolo Farm to Fork

Opposition

None on file.

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