California State Assembly

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OUTCOMES REVIEW OVERSIGHT HEARING

AB 2496 (Pellerin), Chapter 403, Statutes of 2024

Background:

Foster Family Agencies (FFAs) are licensed nonprofit organizations that recruit, certify, train, and support resource families caring for children removed from their homes due to abuse or neglect. While counties can directly approve resource families, FFAs are often used for children with more intensive behavioral, medical, or emotional needs. Unlike county placements, FFAs provide an additional layer of support through assigned social workers, smaller caseloads, weekly family contact, and often 24/7 crisis response services.

FFAs are the primary providers of Intensive Services Foster Care (ISFC), a specialized family-based placement model for youth requiring enhanced behavioral health, medical, or trauma-informed care. Some FFAs also operate Whole Family Foster Homes for parenting foster youth and have developed expertise serving Native American children under the Indian Child Welfare Act. As FFAs have increasingly become the backbone of California's intensive family-based foster care system, stakeholders have raised concerns about the number of FFAs that have closed since 2024 and the resulting impact on placement capacity.

The importance of FFAs is closely tied to the 2011 settlement of *Katie A. v. Bonta*, a class action lawsuit that challenged California's failure to provide legally required community-based mental health services to foster youth. The settlement required the state to ensure children with significant behavioral health needs receive individualized services in the least restrictive, most family-like setting possible, leading to the development of the ISFC model. Because ISFC requires professional support, training, and wraparound services for resource families, FFAs became the near-exclusive providers of these placements statewide.

California's Continuum of Care Reform (CCR), enacted through AB 403 (M. Stone), Chapter 773, Statutes of 2015, and implemented beginning in 2017, built upon the Katie A. framework by restructuring foster care around family-based placements. CCR phased out traditional group homes, replacing them with Short-Term Residential Therapeutic Programs for the highest-acuity youth and relying on FFAs to provide intensive family-based alternatives through ISFC. State planning documents envisioned FFAs serving both treatment and non-treatment foster care roles, linking foster care services with mental health supports required under the Katie A. settlement. Data on the reduction of congregate care placements and any corresponding increase in unlicensed placements may help assess the effectiveness of this transition. Advocates argue that greater state investment is needed to expand ISFC capacity, ensure reimbursement rates cover provider costs, and sustain preventive services.

CCR also established the Resource Family Approval process, creating a single approval pathway for foster parents, relative caregivers, guardians, and adoptive families. Counties frequently contract with FFAs to recruit, train, approve, and support resource families, helping expand placement capacity. AB 819 (M. Stone), Chapter 777, Statutes of 2019, allowed resource families to transfer their approvals between counties and FFAs, though stakeholders reported the process was cumbersome and administratively burdensome.

Problem:

After a series of significant judgments stemming from abuse or neglect allegations happening within FFA-approved homes, in July 2024, the Nonprofit Insurance Alliance of California (NIAC) began issuing nonrenewal notices to FFAs. By August 21, 2024, NIAC announced it would be sending out notices of nonrenewal of all coverages for all FFAs in the state of California. Despite two separate notices from the Insurance Commissioner, Ricardo Lara, to date, no California-admitted insurer has moved to fill the gap. FFAs have instead secured coverage from out-of-state and international carriers. Annual premium increases of 200% to 400% have been documented, with many FFAs reporting cost hikes exceeding $350,000 per year which for smaller FFAs, is their entire operating margin.

Contributing to these circumstances was California's 2019 expansion of the statute of limitations for childhood sexual abuse claims, which allowed new litigation against institutions including schools, churches, and foster care providers for past abuse. Thousands of suits have been filed statewide, and jury verdicts against child-serving organizations have increased substantially. Schools were among the first sectors to experience insurance market disruption, with FFAs following.

Because FFAs are required to have liability insurance to operate, this announcement caused concern about the future of FFA-approved placements. Without liability insurance, many FFAs reported they would be forced to close. NIAC stated that the “elimination of liability insurance would cause a collapse of California’s FFA system…FFAs would be required to return foster children to congregate care.”[1]

Solution:

To provide an immediate solution for foster youth while these underlying conditions are being resolved, this bill provided a temporary fix and ensured foster youth remained in their placements. This bill was enacted and did three things:

Liability – Authorizes, until January 1, 2027, an FFA to be held liable for injury or damage caused by the FFA's own negligence, but not for injury or damage caused by a public entity. Requires the FFA and the placing county to each bear the cost of insuring against their respective acts and omissions, and to defend against claims arising from those risks. Prohibits courts from waiving or suspending these provisions, and voids, against public policy, any contract provision that would shift liability for a public entity's negligence onto an FFA.

Expedited Resource Family Transfer Waiver Authority – Authorizes the California Department of Social Services (CDSS), until January 1, 2027, to waive standard transfer-of-approval requirements, other than background check requirements, to expedite the movement of a resource family from a closing FFA to another FFA or to a county. Specifies that the rate paid to a resource family during a pending transfer is the rate most recently established for that child, with the possibility of rate adjustment upon completion of the transfer. Requires CDSS to provide the receiving FFA or county with timely information and documentation related to pending investigations and administrative actions against the resource family.

[1] https://insurancefornonprofits.org/FFA-Fact-Sheet.pdf

Reporting Requirements - Requires CDSS to report to the Legislature on resource family transfer data in conjunction with the 2025 May Revision, and coordinate with other relevant state departments, agencies, and stakeholders to examine available options to make insurance available to FFAs, and update the Legislature on those efforts in conjunction with the 2025-26 fiscal year budget process.