

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES  
Eloise Gómez Reyes, Chair  
AB 163 (Cristina Garcia) – As Amended April 12, 2019

**SUBJECT:** Services for unaccompanied undocumented minors: facilities liaison

**SUMMARY:** Requires the creation of a facilities liaison position within the California Department of Social Services' (CDSS's) Immigration Services Unit in order to connect certain facilities and families providing care to undocumented immigrant youth with services and supports aimed at ensuring the health, safety, and well-being of those youth. Specifically, **this bill:**

- 1) Requires CDSS to create a facilities liaison position within its Immigration Services Unit to connect state-licensed group homes, short-term residential therapeutic programs (STRTPs), foster family agencies (FFAs), and resource families that serve undocumented immigrant youth with appropriate supports and services, to include, but not be limited to, legal services, mental health assessments and services, and public benefits.
- 2) Requires the facilities liaison to do all of the following:
  - a) Arrange, when appropriate, a meeting for each identified unaccompanied undocumented minor (UUM) with a qualified organization that has received a grant to provide legal services to UUMs, as specified;
  - b) Work with county child welfare agencies and human services agencies to identify services and supports available to group homes, STRTPs, FFAs, and approved resource families that provide care to undocumented youth, and connect licensees to these services and supports;
  - c) Work to identify other state and local resources beneficial to ensuring the health, safety, and well-being of undocumented youth, and connect group homes, STRTPs, foster family agencies, and approved resource families serving such youth to those resources; and,
  - d) Communicate regularly with CDSS's Community Care Licensing Division (CCLD) about any complaints or licensing concerns regarding group homes, STRTPs, foster family agencies, and resource families that house undocumented youth in order to help address any concerns through referral to appropriate services and supports.

**EXISTING LAW:**

- 1) Permits the juvenile court to adjudge a child a dependent of the court for specified reasons, including, but not limited to, if a child has suffered or is at substantial risk of suffering serious physical harm, emotional damage, or sexual abuse, as specified. (Welfare and Institutions Code Section [WIC] Section 300)
- 2) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected, or

exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm. (WIC 300.2)

- 3) Declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of their parents, to give preferential consideration to placement with relatives. States the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting and as close to the child's family as possible, as specified. Further states the intent of the Legislature that all children live with a committed, permanent, nurturing family and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (WIC 16000)
- 4) Requires out-of-home placement of a child in foster care to be based upon selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and the most appropriate setting that meets the child's individual needs, as specified. Further, requires the selection of placement to consider, in order of priority, placement with: relatives, nonrelative extended family members, and tribal members; foster family homes, resource families, and approved or certified homes of foster family agencies; followed by intensive services for foster care homes or multidimensional treatment foster care homes or therapeutic foster care homes; group care placements in the order of short-term residential therapeutic programs, group homes, community treatment facilities, and out-of-state residential treatment, as specified. (WIC 16501.1(d)(1))
- 5) Defines “unaccompanied undocumented minor” in state law to mean the same as “unaccompanied alien children” in federal law, which is defined as a child who has no lawful immigration status in the United States, has not yet reached 18 years of age, and with respect to whom either there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody. (WIC 13300(c) and Title 6 of United States Code, Section 279(g)(2))
- 6) Requires CDSS to contract, as specified, with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state and establishes requirements for those contracts, as specified. (WIC 13300, 13301)
- 7) Establishes the “California Community Care Facilities Act” to provide for the licensure and regulation of community care facilities. (Health and Safety Code [HSC] Section 1500 *et seq.*)
- 8) Defines “community care facility” to mean any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, individuals with physical disabilities or mental impairments and abused or neglected children. Includes within this definition, among a number of other facilities: adult day programs, foster family homes, small family homes, full-service adoption agencies, short-term residential therapeutic programs, and crisis nurseries. (HSC 1502 (a))

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***Community care licensing:*** The CCLD within CDSS is charged with licensing and regulating a variety of community care facilities, defined in the California Health and Safety Code as “any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children” (HSC 1502). Community care facilities include an array of programs and settings, such as foster family agencies, foster family homes, adult day programs, social rehabilitation facilities, transitional shelters, group homes, runaway and homeless youth shelters, and others. CCLD also licenses and regulates facilities such as child care centers and residential care facilities for the elderly. There were approximately 72,000 CCLD-licensed facilities with the total capacity to serve almost 1.4 million Californians as of June 29, 2018.

***Child Welfare Services (CWS):*** In California during calendar year 2017, almost 500,000 children had allegations of child abuse or neglect made regarding them. Of these children, approximately 71,000 (14%) had allegations that were substantiated, and 28,000 (40% of children with substantiations) were removed from their homes and entered foster care via the state’s CWS system. (However, children who have reports of abuse or neglect substantiated but are not removed from the home may also receive, along with their families, family maintenance services; these services may in some instances be ordered by the court and, in others, based upon a voluntary agreement with the parent where the courts is not involved. Family maintenance services typically involve a social worker working with a family in the home to prevent and remedy abuse and neglect, and can include a variety of services such as counseling, parent education, respite care, substance use disorder treatment, domestic violence intervention, and victim services.)

The CWS system serves to protect children from abuse and neglect, and to provide for their health and safety. When a county juvenile court finds that a youth is subject to or at substantial risk of maltreatment warranting their removal from the home, the court holds legal jurisdiction over the youth. A youth is served by the CWS system through the appointment of a social worker, and many opportunities exist during which the custody of the youth, or their placement outside of the home, must be evaluated, reviewed and determined by the judicial system, in consultation with the youth's social worker, to help provide the best possible services to the youth. When a youth has been removed from the home, the goal of the CWS system is, often, to reunify them with their parents or guardians, whenever appropriate. When a youth’s reunification with their family is not appropriate, the second highest placement priority of the CWS system is to place youth with other relatives or nonrelative extended family members. Youth may also be placed in foster homes – referred to as “resource family” homes – overseen by either the county or a foster family agency. Specialized placement and service options also exist for youth with significant behavioral health and other needs; these placements and related services can include, among other options, specially trained intensive services foster care resource families, and intensive, temporary placement in short-term residential therapeutic programs, which are replacing group homes under significant changes adopted in recent years per the state’s Continuum of Care Reform (CCR). As of October 1, 2018, there were 59,487 children in California’s child welfare system. Some of the children and youth served by the state’s CWS system are undocumented immigrants – however, it is difficult to ascertain exactly how large this population is due to imperfect data.

***Unaccompanied Undocumented Minors (UUMs):*** UUMs are a population of youth that are defined in state law to mean the same as “unaccompanied alien children” in federal law, which is defined as a child who has no lawful immigration status in the United States, who has not yet reached 18 years of age, and who does not have a parent or legal guardian in the United States who is available to provide care and physical custody. Therefore, this definition pertains both to youth who do not have parents or guardians present in the country, but also to youth whose parents or guardians are present but unable to provide immediate care.

Youth who are not accompanied by a parent or legal guardian and are apprehended by immigration authorities are transferred to the care and custody of the federal Office of Refugee Resettlement (ORR), an entity required by federal law to shelter, feed, and provide medical care for these UUMs while they await immigration proceedings; when possible, youth are released to sponsors – typically, family members – pending proceedings. During Federal Fiscal Year 2017-18, there were 34,815 UUMs released to sponsors across the country; 4,655 of these youth were in California.

However, prior to, or in the absence of, placement with sponsors, UUMs – being under the care and custody of ORR – are placed in various ORR-contracted settings. According to a February 2016 report by the United States Government Accountability Office:

“The children remain in the custody of the federal government throughout their stay in ORR care, but are in the physical custody of ORR residential care providers. ORR solicits residential care providers, referred to as grantees in this report, through funding opportunity announcements, and funds these grantees through 3-year cooperative agreements. When making funding decisions, ORR evaluates applications against a set of established criteria. The grantees are private nonprofit and for-profit organizations and must be licensed by a state licensing agency to provide residential, group, or foster care services for dependent children, for example, in a shelter setting.

“The aim of shelter care is to provide the least restrictive environment commensurate with the safety, emotional, and physical needs of the child. In keeping with the 1997 Flores v. Reno Settlement Agreement (Flores Agreement), which articulates a number of broad principles and policies applicable to the detention of unaccompanied children, grantees are required to provide proper physical care and shelter for children that ORR has interpreted to include suitable living accommodations (e.g., bed, chair, desk, storage for clothing and other personal items), culturally appropriate meals and snacks, several sets of new clothing, and personal grooming items. The facilities where children are housed are required by ORR to have designated common areas, including space for education, recreation, and case management as well as space to hold confidential services, such as health services and counseling.”

The main placements for UUMs include various types of shelters and foster care; these are state-licensed settings, but the youth are under federal ORR care and custody.

***CDSS Unaccompanied Undocumented Minors Legal Services Funding:*** CDSS is authorized, in current law, to award funding to qualified nonprofit legal services organizations for the provision of services to UUMs. This funding is required to be used solely to provide legal representation for UUMs. Culturally and linguistically appropriate legal services for state court proceedings, federal immigration proceedings, and any related appeals are provided by attorneys, paralegals, interpreters, and other support staff. Legal representation is offered for various

immigration statuses, including Special Immigrant Juvenile Status, asylum, certain visas, and other remedies. For Fiscal Year 2018-19, CDSS allocated \$2.9 million to fund legal services for UUMs; this money was awarded to 23 nonprofit organizations with a combined caseload of 580.

***Need for this bill:*** UUMs and undocumented immigrant youth within the state’s child welfare system can be two particularly vulnerable populations, given their separation from their families, and their potential for encountering language barriers and cultural differences. They are also two populations about whom little is often known. Federal jurisdiction over UUMs and the lack of comprehensive data regarding youth’s immigration status in foster care can make it difficult to know how many of these youth there are, which state-licensed facilities they are residing in, and – most importantly – what their, and their caregivers’, specific needs are. This bill, in its creation of a facilities liaison within the Immigration Services Unit at CDSS seeks to ensure that UUMs, undocumented immigrant foster youth, and their caregivers are connected to available legal, mental health, health, and other services, as appropriate.

According to the author, “We are only given one childhood – California must demand standards of decency for children and families. None of us want to fathom the emotional, life-long trauma we know this practice has caused. California must intervene on behalf of children’s rights. [This bill] would create a facilities liaison whose job it would be to find services beneficial to, and connect those services with state-licensed group homes, foster family agencies, and resource family homes and encourage other states to join California’s efforts to ensure the health and safety of children placed by the federal office of refugee resettlement. In addition the facilities liaison would arrange meetings with each identified undocumented youth with organizations qualified to provide legal services. It would be the responsibility of the facilities liaison to regularly communicate with the Community Care Licensing Division to investigate complaints and licensing issues. This bill would apply to both children who have already been or will be separated and unaccompanied minors.”

#### **RELATED AND PRIOR LEGISLATION:**

***AB 1324 (Levine) of 2019*** requires social workers to report to the juvenile court a description of efforts made to help an undocumented immigrant minor obtain legal counsel and immigration relief and requires CDSS to, if funding is available for this purpose, contract with qualified nonprofit legal services organizations to provide legal services to undocumented immigrant children in the child welfare services system. AB 1324 is scheduled to be heard in the Assembly Judiciary Committee on April 23, 2019.

***SB 873 (Senate Committee on Budget and Fiscal Review), Chapter 685, Statutes of 2014***, was the Human Services Clean-Up Trailer Bill that, among a number of other things, required CDSS, subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Civil Liberties Advocacy  
California Public Defenders Association

California State PTA  
California Teachers Association  
Friends Committee on Legislation of California  
National Association of Social Workers, California Chapter  
Oakland Privacy

**Opposition**

None on file

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