Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Lisa Calderon, Chair
AB 226 (Ramos) – As Amended April 13, 2021

SUBJECT: Children's crisis psychiatric residential treatment facilities

SUMMARY: Reclassifies children's crisis residential programs (CCRPs) as children's crisis psychiatric residential treatment facilities (PRTFs) and transfers responsibility for licensing these facilities to the State Department of Health Care Services (DHCS). Specifically, **this bill**:

1) Deletes provisions allowing a short-term residential therapeutic program (STRTP) from being operated as a CCRP.

2) Deletes provisions relating to CCRPs within community care facility definitions.

3) Deletes provisions regarding the operational requirements of a STRTP functioning as a CCRP.

4) Deletes provisions regarding the regulatory requirements of a STRTP functioning as a CCRP.

5) Defines a "children's crisis PRTF" as a residential facility operated by a public agency or private organization that provides psychiatric services, as specified, to individuals under 21 years of age, in an inpatient setting, and is licensed by the DHCS.

6) Defines "department" as DHCS.

7) Provides that DHCS may license a children's crisis PRTF given that the facility obtains a certification, as specified; further, allows the department to revoke a facility's license for failing to maintain certification as a PRTF.

8) Requires DHCS to begin the licensing process for children's crisis PRFTs no later than January 1, 2022.

9) Requires DHCS to establish regulations for children's crisis PRFTs that include, at a minimum, the following:

   a) Therapeutic programming be provided 7 days a week, including weekends and holidays, with sufficient mental health professional and paraprofessional staff, as specified, based on individual children's needs,

   b) The facility must be staffed with sufficient personnel to accept children 24 hours a day, 7 days a week, and to admit children, at a minimum, from 7 a.m. to 11 p.m., 7 days a week, 365 days per year; additionally, the facility must be sufficiently staffed to discharge children, as appropriate, 7 days a week, 365 days per year,

   c) The established number of beds in the facility must be consistent with the individual treatment needs of the clients served at the facility,

d) Facilities must include ample physical space for accommodating individuals who provide daily emotional and physical supports to each child and for integrating family members into the day-to-day care of the youth,

e) The facility must collaborate with each child's existing mental health team, if available, child and family team, if available, and other formal and supports within 24 hours of intake and throughout care and treatment as appropriate,

f) The facility must create and assist with the implementation of a plan for transitioning each admitted child from the program to their home and community, including the establishment of a mental health or child and family team if there is not one already; and,

g) The facility must annually provide DHCS with all of the following data as it pertains to children in foster care and children not in foster care for purposes of the application for licensure renewal:

    i) Age and gender of clients served,

    ii) Duration of stay,

    iii) Professional classification of staff and contracted staff; and,

    iv) Type of placement the client was discharged to.

10) Requires DHCS, in consultation with the Department of Managed Health Care, CDSS, the County Behavioral Health Directors Association of California (CBHDA), the County Welfare Directors Association of California, the Chief Probation Officers of California, provider representatives, and other relevant stakeholders, to establish program standards and procedures for oversight, enforcement, and issuance of children's crisis PRTF certifications; further, requires DHCS to ensure that the program standards provide for psychiatric services, as specified.

11) Requires DHCS, in collaboration with the California Department of Social Services (CDSS), CBHDA, provider representatives, and other relevant stakeholders, to provide guidance to counties for the provisions of children's crisis PRTF, including funding for children who are Medi-Cal beneficiaries and who are admitted to a children's crisis PRTF.

12) Requires the children's crisis PRTF only be used as a diversion to admittance to a psychiatric hospital.

13) Requires the children's crisis PRTF length stay to conform to Medicaid requirements for PRTFs and consistent with the individual plan of care developed by the interdisciplinary treatment team.

14) Requires the children's crisis PRTF to accept admission for children who meet all of the following requirements:

    a) The child is referred by a parent or guardian, physician, or licensed mental health professional, or by the representative of a public or private entity, including, but not limited to, the county probation agency or child welfare services agency with

responsibility for the placement of a child in foster care, who has the right to make these decisions on behalf of a child who is in a mental health crisis,

b) The services to be provided in a children's crisis PTRF is certified in writing to be necessary, as specified,

c) The child is under 19, 20, or 21 years of age, depending on a program's licensing requirements,

d) The child has a serious behavioral health disorder,

e) The child requires a 24-hours-a-day, 7-days-a-week, staff-secured, unlocked treatment setting,

f) DHCS, or a county mental health plan to which DHCS has delegated approval authority, may enforce the children's crisis PRTF certification standards by taking any of the following actions against a noncompliant children's crisis psychiatric residential treatment facility:

    i) Suspend or revoke a children's crisis PRTF certification,

    ii) Impose monetary penalties,

    iii) Place a children's crisis PRTF on probation; and,

    iv) Require a children's crisis PRTF to prepare and comply with a corrective action plan.

g) DHCS, or a county mental health plan to which DHCS has delegated approval authority, must provide a children's crisis PRTF with due process protections when taking any of the actions, as specified,

h) Requires DHCS to begin the approval process for children's crisis PRFTs no later than January 1, 2022.

15) Provides that in order to maximize federal financial participation, the regulations and certification established by DHCS for children's crisis PRTF must be consistent with Medicaid regulations governing PRTFs, as specified; further, requires staffing requirements to conform to existing regulations for care provided under the direction of a physician and interdisciplinary team.

16) States Legislative intent to adopt future regulations to consider and provide flexibility regarding the appropriateness of age groups served within a children's crisis PRTF.

17) Deletes provisions relating to admission requirements for STRTPs operating as a CCRP.

18) Deletes provisions regarding the approval process for CCRPs through DHCS.

19) Provides that children's crisis PRTFs are included in the definition of health care relating to mental health and substance use disorder services.

20) Makes Legislative findings and declarations regarding the psychiatric benefits under the Medi-Cal program.

EXISTING LAW:

1) Establishes the "California Community Care Facilities Act" (CCFA) and requires CDSS to administer and license community care facilities providing nonmedical services, including adult residential facilities and STRTPs, among others. (Health and Safety Code Section [HSC] 1500 et seq.)

2) Defines "community care facility" 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, individuals with physical disabilities or mental impairments and abused or neglected children. (HSC 1502 (a))

3) Defines "residential facility" as any family home, group care facility, or similar facility determined by the department for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining daily living activities or for the protection of the individual. (HSC 1502 (a)(1))

4) Defines a "STRTP" as a CDSS licensed residential facility to provide short-term, specialized, and intensive treatment and 24-hour care and supervision to children. The care and supervision provided by a short-term residential therapeutic program shall be nonmedical, except as otherwise permitted by law. (HSC 1502 (a)(18))

5) Requires a STRTP to comply with certain requirements and provides provisions relating to licensure, as specified. (HSC 1562.01 *et seq.*)

6) Requires a STRTP to obtain a contract with a county mental health plan to provide specialty mental health services, as specified, no later than 12 months from the date of initial licensure and to meet the therapeutic needs of each child, as defined. (Welfare and Institutions Code Section [WIC] 11462.01)

7) Establishes provisions for the administration of California's Medicaid program, Medi-Cal, through which eligible low-income individuals receive health care and mental health services, including foster youth. (WIC 14000 *et seq.*)

8) Establishes provisions for administering the federal Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program to provide comprehensive and preventive health services, including specialty mental health services to Medi-Cal beneficiaries under the age of 21. (42 Code of Federal Regulations Section [CFR] 441.50)

9) Requires each local mental health plan to establish a procedure to ensure access to outpatient specialty mental health services, as required by EPSDT program standards, for any child in foster care who has been placed outside his or her county of adjudication. (WIC 14716)

10) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (WIC 202)

11) Clarifies the purpose of provisions regarding dependent children as to provide the 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)

12) Establishes the "Investment in Mental Health Wellness Act of 2013" to expand access to early intervention and treatment services, expand the continuum of services to address crisis intervention and crisis residential treatment needs, and add targeted supports to the community mental health system. (WIC 5848.5 (b))

13) Requires county mental health departments to provide children served by county social services and probation departments, who meet the definition of medical necessity, with mental health screening, assessment, participation in multidisciplinary placement teams, and specialty mental health treatment. (WIC 5867.5)

FISCAL EFFECT: Unknown

COMMENTS:

Community Care Facilities: The CCFA was enacted in 1973 and contained provisions for various community-based housing options to create a new community-based care system for those who require additional supervision. These care facilities provide nonmedical services to individuals with disabilities, seniors, children in foster care, families who need early child education, and those with severe behavioral, emotional, or mental health disorders.

Facilities created under the CCFA are administered through CDSS. Within the department is the Community Care Licensing Division (CCLD), which is responsible for the facilities' direct oversight. The Division is responsible for licensing facilities across programs and ensures regulatory compliance and enforcement when necessary. The mission of CCLD is to "promote the health, safety, and quality of life of each person in community care through the administration of an effective collaborative regulatory enforcement system."

Children's Residential Program: The Children's Residential Program has regulatory responsibility for residential facilities serving youth, typically those in the child welfare system. These facilities provide 24-hour care and supervision for minors, age zero through 17, and nonminor dependents, age 18 through 21. According to the CDSS website, the Children's Residential Program's mission is "to protect and improve the lives of all youth who reside in a community care facility through the administration of a transparent licensing system that is collaborative, fair, and supportive of families." Some of the facilities included in the Children's Residential Program include crisis nurseries, adoption agencies, foster family agencies, licensed foster family homes; small family homes; group homes; and STRTPs. Although they vary in care and supervision level, these facilities are all licensed by the CCLD within CDSS.

Short-term residential therapeutic programs: STRTPs provide short-term, 24-hour nonmedical care and supervision to youth. STRTPs offer mental health interventions to stabilize, support, and transition youth with high-level mental health needs to lower levels of care using trauma-

informed, culturally relevant services. This licensing category was established to align mental health policy with the state's efforts to reduce the use of congregate care settings, which has become more urgent during the last year of the COVID-19 pandemic. As of July 2020, there were 387 licensed STRTPs in California with a capacity to serve 4,291 youth.

Children's Crisis Residential Programs: CCRPs are facilities licensed by CDSS as STRTPs that also have mental health programs approved by the DHCS. CCRPs were established in code with the goal of providing an alternative to psychiatric hospitalization. There are currently no approved CCRPs in California.

Child Welfare Services (CWS): California's CWS system was established with the goal of protecting youth from abuse and neglect. The system works through collaboration to provide for the safety, health, and overall well-being of children. When a child is identified as being at risk of abuse or neglect, reports can be made to either law enforcement or a county child welfare agency. Often, reports are submitted by mandated reporters who are legally required to report any suspicion of child abuse or neglect due to their profession. When a mandated reporter submits a report to either law enforcement or the county child welfare agency, a social worker determines whether the allegation is of suspected abuse, neglect, or exploitation. The child's social worker and the court collaborate throughout evaluating and reviewing the circumstances of each individual's case. As of January 1, 2021, there were 59,716 youth placed in the state's child welfare system in total.

Continuum of Care Reform (CCR): In recent years, California has enacted legislation, known as CCR, to improve placement and treatment options for youth in foster care. AB 403 (Stone), Chapter 773, Statutes of 2015, sponsored by CDSS, sought to improve outcomes for children and youth served by the CWS system by working to ensure that foster youth have their day-to-day physical, mental, and emotional needs met, that they have the opportunity to grow up in permanent and supportive homes, and have the opportunities necessary to become self-sufficient and successful adults. CCR also sought to reduce the use of congregate care as a frequently used placement option for youth, as data have demonstrated that youth placed in congregate care settings experience poorer outcomes than youth placed in family settings. Subsequent legislation to further facilitate implementation of CCR efforts include AB 1997 (Stone), Chapter 612, Statutes of 2016, AB 404 (Stone), Chapter 732, Statutes of 2017, AB 1930 (Stone), Chapter 910, Statutes of 2018, AB 819 (Stone), Chapter 777, Statutes of 2019, and AB 2944 (Stone), Chapter 104, Statutes of 2020.

Mental health needs of youth: According to the National Alliance on Mental Illness (NAMI), approximately 20% of youth between the ages of 13 and 18 live with a mental health condition. Undiagnosed mental health conditions in children directly correlate to increased risks of health concerns in adulthood; however, the system for detecting and treating youth mental illness often falls short of the support necessary for this population. NAMI reports that almost half of children aged 8 to 15 who did receive a diagnosis received no mental health services in the prior year. The impacts of support shortfalls in the current system become more drastic as youth age, with suicide as the third leading cause of death in those 15-19.

Foster youth mental health needs: Foster youth experience a high rate of mental health disorders compared to their peers. Abuse and neglect, especially when experienced at a young age, impact the emotional and physical development of a child. If trauma is experienced during critical periods of development, a child often struggles to form strong relationships, build trust in others,

and show signs of empathy. The American Psychological Association states that nearly half of foster youth show clinically significant emotional or behavioral health problems, and children under age seven who enter foster care show increased rates of developmental problems. Foster youth are also at greater risk of struggling in school, facing difficulties in finding employment, and experiencing substance use disorders.

Early and Periodic Screening, Diagnosis, and Treatment Program: The EPSDT Program is a federal entitlement administered by the Health Resource and Services Administration. EPSDT requires states and counties to provide preventative health care services to low-income children enrolled in Medicaid. Federal regulations require states to inform all Medicaid-eligible children under age 21 and their families about EPSDT within 60 days of enrollment; inform Medicaid-eligible pregnant women, adoptive and foster care parents of eligible children about EPSDT services; offer and assist with transportation to medical care; offer and assist with scheduling appointments with EPSDT care and services.

Through the state's Medicaid program, Medi-Cal, foster youth are eligible for the EPSDT Program in California. The program is administered through DHCS and provides comprehensive health care services to children under the age of 21 who have full-scope Medicaid eligibility. EPSDT includes screening, diagnostic, and treatment services that seek to ensure youth receive adequate health care. EPSDT also includes specialty mental health services, which are available to children and certain adults who meet specific medical necessity criteria, to facilitate diagnostic and treatment services to address defects and physical and mental illnesses discovered by screening processes.

Coronavirus Pandemic: In March 2020, Governor Gavin Newsom declared a statewide state of emergency in response to the global COVID-19 pandemic. With over 500,000 deaths resulting from coronavirus across our country, the impact of this virus has touched almost every aspect of everyday life. We have watched as the effects of COVID-19 have added strain on California's public programs, healthcare system, and the financial security of many. As our state begins the road to recovery, many youth who have been isolated will make their way back to classrooms and communal settings, allowing mandated reports to resume contact and creating an anticipated spike in reports of suspected abuse and neglect.

Need for this bill: This bill would address licensing issues and reclassifies CCRPs as children's crisis PRTFs to ensure federal consistency. While the state has made vital steps towards ensuring youth have adequate mental health supports through the creation of residential programs, the process established for CCRPs requires clarifying changes to receive necessary federal funding. By reclassifying the specified facilities that provide mental health services to youth as PRTFs, the state could receive funding to strengthen our current system infrastructure and ensure all children receive the care they need without unnecessary hospitalizations.

According to the author, "This bill takes a vital first step in providing youth the crisis stabilization services still missing from our network of behavioral health services. This bill would clarify licensing issues and ensure much-needed federal funding for CCRPs to provide urgent mental health services to children in crisis. The bill seeks to maximize federal funding for these programs and ensure the availability of these critical services for youth."

RELATED AND PRIOR LEGISLATION:

AB 501 (Ridley-Thomas), Chapter 704, Statutes of 2017, expands the definition of a STRTP to include a CCRC to be used as a diversion from psychiatric hospitalization and creates a new facility licensure category for CCRCs, and makes related changes.

AB 741 (Williams) of 2016, would have expanded the definition of a short-term residential treatment center to include a CCRC to be used as a diversion from psychiatric hospitalization and would have limited the stay to 10 consecutive days and no more than 20 total days within a six-month period. AB 741 was vetoed by Governor Bown.

REGISTERED SUPPORT / OPPOSITION:

Support

California Alliance of Child and Family Services (Sponsor)
California Children's Hospital Association
County Behavioral Health Directors Association of California
Vista Del Mar Child and Family Services

Opposition

None on file

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