

Date of Hearing: May 7, 2020

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
AB 2944 (Mark Stone) – As Introduced February 21, 2020

SUBJECT: Foster care

SUMMARY: Adopts changes to further facilitate implementation of Continuum of Care Reform (CCR) specifically as it relates to flexibility for resource families, reference checks for approval of resource family applicants, and forfeiture of a group home license, among other changes. Specifically, **this bill:**

- 1) Deletes the requirement that an assessment of prospective adoptive parents include certification that the applicant and each adult residing in the applicant's home has received a communicable tuberculosis test.
- 2) Expands the purpose of a foster family agency's (FFA's) or county's reference check of a resource family applicant to include determination of whether it is safe and appropriate for the FFA to approve the applicant to be a resource family.
- 3) Includes among the entities that an FFA or county is required to contact when performing a reference check, any Indian tribe as defined in current federal law, that has approved or licensed an applicant in certain categories enumerated in current law, as specified.
- 4) Requires an FFA that has previously certified or approved a resource family applicant as a resource family, within 20 business days of being contacted by an FFA, to divulge information regarding the applicant to the requesting FFA conducting a reference check.
- 5) Expands the list of entities that may request information from, or divulge information to, the California Department of Social Services (CDSS), a county, or an FFA to include Indian tribes, and, further, permits Indian tribes to also receive information from those entities, for purposes of conducting a reference check for prospective resource families.
- 6) Prohibits an FFA that has subsequently approved a resource family that is currently approved by another FFA or a county from approving or denying an application if there is a pending investigation that poses a health and safety risk or a pending administrative action against the applicant or an adult residing in the home, as specified, and, further, permits a subsequent FFA or county to approve or deny an application of a resource family after the investigation or administrative action has concluded, and the subsequent FFA or county has confirmed that the applicant is still eligible to apply for approval and does not pose a health and safety risk to children or nonminor dependents (NMDs).
- 7) Requires all licensed community care facilities serving children to provide trauma-informed care and utilize trauma-informed practices, as specified, and, further, permits CDSS to adopt regulations through interim licensing standards until regulations are adopted in order to implement this requirement.

- 8) Deletes instances where a licensee is convicted of an offense for which CDSS may not grant a criminal record exemption, as specified, from the list of reasons for which certain community care licenses must be forfeited.
- 9) Requires a group home license be forfeited by operation of law when the licensee transitions the group home to a short-term residential therapeutic program (STRTP) and receives a permanent STRTP license.
- 10) Deletes instances where a resource family is convicted of an offense for which CDSS may not grant a criminal record exemption, as specified, from the list of reasons for which resource family approval must be forfeited.
- 11) Expands the facilities for which CDSS is required to establish regulations, including provisions for periodic inspections, to include resource family homes of FFAs, as specified.
- 12) Prohibits resource family homes of FFAs from being subject to civil penalties, as specified in current state law.
- 13) Expands confidentiality protections for licensed foster family homes, certified family homes, and resource families approved by FFAs to certain administrative proceedings, as specified.
- 14) Requires, if timelines for an appeal differ from the timelines enumerated in current law as a result of multiple actions filed against the respondent, a county or CDSS to accept an appeal to one action as an appeal to all actions against the same respondent if requested to do so by the respondent.
- 15) Requires, when an action for rescission of approval, criminal record exemption rescission, or exclusion includes an action for resource family application denial, the applicable appeal timeline for a rescission of approval, criminal record exemption rescission, or exclusion to apply to the action for resource family application denial.
- 16) Makes technical changes.

EXISTING LAW:

- 1) States that the purpose of foster care law is to provide maximum safety and protection for children who are being physically, sexually or emotionally abused, neglected, or exploited and to ensure the safety, protection, and physical and emotional well-being of children at risk of such harm. (Welfare and Institutions Code Section [WIC] 300.2)
- 2) Declares the intent of the Legislature to, whenever possible: preserve and strengthen a child's family ties, reunify a foster child with his or her relatives, or when family reunification is not possible or likely, to develop a permanent alternative. Further 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 promoting normal childhood experiences that is suited to meet the child's or youth's needs and is as close to the child's family as possible, as specified. Further declares Legislative intent that all children live with a committed, permanent, and nurturing family and that services and supports should be tailored to meet the needs of the individual child and family being served, as specified. (WIC 16000)

- 3) Requires an assessment of a prospective adoptive parent to certify that the applicant and each adult residing in the applicant's home has received a test for communicable tuberculosis. (Family Code 8732)
- 4) Requires an FFA, before approving a resource family, to conduct a reference check of the applicant by contacting certain entities, including: any FFAs that have certified the applicant; any state or county licensing offices that have licensed the applicant as a foster family home; and, any counties that have approved the applicant as a relative or nonrelative extended family member (NREFM), among others, as specified. (Health and Safety Code [HSC] 1517.2(b)(1))
- 5) Requires a county, before approving a resource family, to conduct a reference check of the applicant by contacting certain entities, including: any FFAs that have certified the applicant; any state or county licensing offices that have licensed the applicant as a foster family home; and, any counties that have approved the applicant as a relative or NREFM. (WIC 16519.55(c))
- 6) Allows a resource family currently approved by a FFA to be approved by a subsequent FFA upon the successful completion of certain activities, as specified. (WIC 1517.5(a))
- 7) Allows a resource family currently approved by a county to be approved by a subsequent FFA upon the successful completion of certain activities, as specified. (WIC 1517.5(b))
- 8) Requires a group home license be forfeited by operation of law when certain circumstances occur, including, but not limited to: the licensee surrenders the license to CDSS; the licensee abandons the facility; or, the licensee is convicted of an offense for which CDSS is prohibited from granting criminal record exemption pursuant to state law, as specified. (HSC 1524)
- 9) Requires a resource family approval be forfeited by operation of law when certain circumstances occur, including, but not limited to: a resource family surrenders the approval to the licensed FFA; the sole resource family parent dies; or, the resource family is convicted of an offense for which CDSS is prohibited from granting a criminal record exemption pursuant to state law, as specified. (HSC 1524.01 and WIC 16519.501)
- 10) Prohibits certified family homes of FFAs and foster family homes from being subject to civil penalties, as specified in state law. (HSC 1530.5(a))
- 11) Deems certain administrative proceedings enumerated in current state law as confidential and not open to the public in order to preserve the confidential information of a child or foster parent, as specified. (HSC 1551.3)
- 12) Permits an applicant for resource family approval or for a criminal record exemption to file a written appeal within 90 days of service of a notice of action (NOA), and, further, permits a resource family, excluded individual, or individual who is the subject of a criminal record exemption rescission to file a written appeal within 25 days of service of a NOA or exclusion order. Further, requires, if the NOA is served by mail, the time to respond be extended five days. (WIC 16519.6(d))

FISCAL EFFECT: Unknown

COMMENTS:

Child welfare services: The goal of California’s Child Welfare Services (CWS) system is to protect children from abuse and neglect, as well as provide for their health, safety, and overall well-being. When suspicions of abuse or neglect arise, often as a result of a report by a mandated reporter, such as a doctor or a teacher, child protective services is responsible for investigating the report. If the abuse or neglect allegation is substantiated, it is then determined whether it is in the best interest of the youth to remain in their parent’s custody or be placed within the CWS system. In instances where a youth is removed from their parent’s custody, the juvenile court holds legal jurisdiction and a social worker is appointed by the CWS system to ensure that the needs of the youth are met. As of January 1, 2020, there were 59,156 youth placed in California’s child welfare system.

Continuum of Care Reform (CCR): Over the past four 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 819 (Stone), Chapter 777, Statutes of 2019; AB 1997 (Stone), Chapter 612, Statutes of 2016; AB 404 (Stone), Chapter 732, Statutes of 2017; and, AB 1930 (Stone), Chapter 910, Statutes of 2018.

CCR also featured the statewide adoption of the Resource Family Approval (RFA) program, which, until that point, had been a voluntary pilot project for counties. RFA provides a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship processes. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families, including relatives, in order to ensure that caregivers are equipped to best meet the needs of youth in foster care. RFA is also a route to direct permanency for caregivers who wish to adopt or be guardians of youth in care, as the RFA process includes elements required by both the adoption and guardianship processes.

Need for this bill: The provisions of this bill seek to further the ongoing efforts of CCR by adopting changes to facilitate greater flexibility for resource families who wish to transfer between oversight agencies, prohibiting approval or denial of a resource family application if there is a pending investigation that poses a health and safety risk or a pending administrative action against the applicant or adult residing in the home, and requiring all licensed community care facilities serving children to provide trauma-informed care and utilize trauma-informed practices, among other requirements.

According to the author, “[This bill] is this year’s legislation to update the continuum of care reform process that began with the passage and signing of AB 403 in 2015. As written, this measure would ensure that trauma-informed care is provided in all children’s residential facilities. The bill would also streamline the adoption process by removing the requirement for

resource families to have a tuberculosis test and would make changes to improve the resource family transfer application process.

“The bill would make several necessary clarifications, including clarifying that resource families are exempt from civil penalties, clarifying that group homes that have transitioned to an STRTP will only have one license, and clarifying the administrative action appeal timelines for resource families. [This bill] also extends due process to approved resource families when convicted of a non-exemptible crime, and extends confidentiality protections for foster families involved in an administrative proceeding.”

RELATED AND PRIOR LEGISLATION:

AB 819 (Stone), Chapter 777, Statutes of 2019, furthered CCR efforts made by AB 403, AB 1997, AB 404, and AB 1930.

AB 1930 (Stone), Chapter 910, Statutes of 2018, furthered CCR efforts made by AB 403, AB 1997, and AB 404.

AB 1694 (Stone), Chapter 10, Statutes of 2018, repealed statutory language that excludes foster care payments from being considered income for the purpose of eligibility and benefits for certain educational and other programs.

AB 404 (Stone), Chapter 732, Statutes of 2017, furthered CCR efforts made by AB 403 and AB 1997.

AB 1997 (Stone), Chapter 612, Statutes of 2016, furthered CCR efforts made by AB 403.

AB 403 (Stone), Chapter 773, Statutes of 2015, implemented CCR recommendations to better serve children and youth in California’s child welfare services system.

REGISTERED SUPPORT / OPPOSITION:

Support

California Department of Social Services (Sponsor)

Opposition

None on file

Analysis Prepared by: Kelsy Castillo / HUM. S. / (916) 319-2089