

Date of Hearing: May 7, 2020

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 3272 (Reyes) – As Introduced February 21, 2020

SUBJECT: Foster care

SUMMARY: Adopts statutory changes to state law to implement requirements enumerated in the federal Families First Prevention Services Act (FFPSA) of 2018. Specifically, **this bill:**

- 1) Adopts the following changes related to Short-Term Residential Treatment Program (STRTP) practices and operations:
 - a) Expands the definition of an STRTP to specify that services, supports, and supervision to children be trauma-informed, as defined in guidance provided by the California Department of Social Services (CDSS).
 - b) Expands the components of an STRTP's program statement to describe:
 - i) On and after October 1, 2021, how the STRTP will meet standards, to be established by CDSS, for: a comprehensive model for providing trauma-informed care designed to address the individualized needs of children, and a plan to make nursing staff available, consistent with the needs of children residing in the facility, via the primary care system, the managed care system, or through a public health nurse, using an identified assessment process that includes a determination, as specified by provisions of this bill;
 - ii) In collaboration with the Child and Family Team (CFT), how the STRTP will provide for, arrange for the provision of, or assist in: an individualized discharge plan that considers continuity of care, education, and meaningful relationships, and addresses the findings of the child's needs and strengths assessment with family-based services, and, on and after October 1, 2021, discharge and family-based aftercare support, as defined by CDSS, for at least six months post-discharge; and,
 - iii) On or after October 1, 2021, how the STRTP will, to the extent appropriate, consistent with any applicable court orders, and in accordance with the child's best interest, do all of the following: facilitate participation of family members in the child's treatment program, facilitate outreach to the family members of the child, document how the outreach is made, and maintain contact information for any known biological family and non-related extended family members (NREFMs), document how family members will be integrated into the treatment process for the child, including post-discharge and how sibling connections are maintained. Further, prohibits this requirement from being interpreted as superseding the placement and care responsibility vested in the county child welfare agency or probation department.
 - c) Requires an STRTP, on and after October 1, 2021, to ensure the availability of nursing staff, consistent with the treatment needs of children residing in the facility, via the child's primary care system, the managed care system, or through a public health nurse. Further, requires nursing staff to:

- i) Provide care within the scope of their practice, as defined by current law, as specified;
 - ii) Be onsite according to the treatment model of the STRTP and as otherwise required by the needs of any child residing in the facility; and,
 - iii) Be available 24 hours a day, 7 days a week.
- 2) Makes the following changes related to emergency placement of dependents in STRTPs:
- a) Defines “qualified individual (QI)” as a trained professional or licensed clinician responsible for conducting the determination described by certain provisions of this bill, as specified, and determining the most effective and appropriate placement for a child, and, further, prohibits the QI from being an employee of a county child welfare or probation agency, or from being connected to, or affiliated with, any placement setting.
 - b) Requires, for a placement made on or after October 1, 2021, each temporary placement of a child in an STRTP or a placement of a ward in an STRTP be reviewed by the court within 45 days of the start of the temporary placement, and, further, prohibits the court from granting a continuance of the review that would cause the review to be completed more than 60 days after the start of the temporary placement.
 - c) Requires, for a placement made on or after October 1, 2021, each placement of a child ages 6 to 12, inclusive, comply with certain requirements of the Interagency Placement Committee (IPC) and QI determinations and assessments, as described by certain provisions of this bill, as specified.
- 3) Makes the following changes related to youth placement in STRTPs:
- a) Requires, for a placement made on or after October 1, 2021, if the child has been placed in an STRTP, each social study or evaluation made by a social worker or child advocate appointed by the court to include certain information related to the determination to place the child into the STRTP, as specified by provision of this bill.
 - b) Requires, for each placement of a dependent or ward of the court in an STRTP made on or after October 1, 2021, the court to review the placement within 45 days of the start of the placement, and, further, prohibits the court from granting a continuance that would cause the review to be completed more than 60 days after the start of the placement.
 - c) Requires the social worker or probation officer, if applicable, within five calendar days of the receipt of the report from a QI or within 35 days of the placement, to request the court to review the placement. Further, requires the court review to include all of the following:
 - i) A copy of the determination and supportive documentation prepared by the QI;
 - ii) The required case plan documentation, as specified by certain provisions of this bill; and,
 - iii) A statement regarding whether the child or nonminor dependent (NMD) or any member of the CFT objects to the placement of the child or NMD in the STRTP,

- d) Requires the court to set a hearing within five calendar days of receipt of the social worker's request, and, further, permits the court to review the placement without setting a hearing if all of the following conditions are met:
 - i) The court has received and considered the social worker's request;
 - ii) No party to the proceeding or member of the CFT objects to the placement of the child or NMD in the STRTP;
 - iii) The court will make certain determinations, as specified, based on the information before the court; and,
 - iv) The court intends to approve the placement based on the information before the court.
- e) Requires the court, when reviewing each placement of the child or NMD in an STRTP, to:
 - i) Consider the information included in the social worker's request;
 - ii) Determine whether the STRTP is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or NMD;
 - iii) Approve or disapprove the placement; and,
 - iv) Determine whether the needs of the child or NMD can be met through placement in a home-based family setting, or, if not, whether placement in an STRTP provides the most effective and appropriate care setting for the child or NMD in the least restrictive environment. Further, prohibits a shortage or lack of family homes from being an appropriate reason for determining that the needs of a child cannot be met in a home-based family setting.
- 4) Requires the court, if the court disapproves the placement, to order the social worker to transition the child or NMD to a placement setting that is consistent with the determinations made, as specified, within 30 days of the disapproval.
- 5) Specifies that the court is not prohibited from reviewing the placement of a minor or NMD in an STRTP at a regularly scheduled hearing if that hearing is held within 60 days of the placement and the information required by the provisions of this bill, as specified, has been presented to the court.
- 6) Instructs the Judicial Council, no later than October 1, 2021, to amend or adopt rules of court and develop or amend appropriate forms, as necessary, to implement the requirements of this bill related to court review of certain placements.
- 7) Requires, beginning October 1, 2021, for a child whose placement in an STRTP has been reviewed and approved pursuant to certain provision of this bill, certain reports to the court, including those submitted by social workers and court appointed advocates, and probation officers, and those submitted at certain review hearings, as specified, to include evidence of all of the following:

- a) Ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child continues to support the determination that the needs of the child cannot be met through a placement in a home-based family setting, placement in an STRTP continues to provide the most effective and appropriate care setting in the least restrictive environment, and the placement is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child;
 - b) Documentation of the child's specific treatment or service needs that continue to be addressed in the placement, and documentation of the length of time the child is expected to need the treatment or services; and,
 - c) Documentation of the intensive and ongoing efforts made by the child welfare department consistent with the child's permanency plan to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, an adoptive parent, in a resource family home, or in another appropriate home-based family setting.
- 8) Requires, beginning on October 1, 2021, within 30 days of placement of a ward or a dependent in an STRTP, the case plan to document all of the following:
- a) The reasonable and good faith effort by the probation officer to identify and include all required individuals in the CFT;
 - b) All contact information for members of the CFT, as well as contact information for other relatives and NREFMs who are not part of the CFT;
 - c) Evidence that CFT meetings, as specified, are held at a time and place convenient for the family;
 - d) If reunification is the goal, evidence that the parent from whom the minor or NMD was removed provided input to the CFT members;
 - e) Evidence that a determination pursuant to the provisions of this bill was conducted in conjunction with the CFT; and,
 - f) The placement preferences of the minor or NMD and the CFT relatives to the determination and, if the placement preferences of the minor or NMD or the CFT are not the placement setting recommended by the QI conducting the determination, the reasons why the preferences of the team or the youth were not recommended.
- 9) Requires a youth's case plan to document the court's approval or disapproval of the placement, and, further, requires, when the minor or NMD has been placed in an STRTP for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a minor who has not attained 13 years of age, for more than 6 consecutive or nonconsecutive months, the case plan to include the required documentation included in a probation officer's social study, as described by certain provisions of this bill, as specified.
- 10) Requires, beginning on October 1, 2021, prior to a youth's discharge from an STRTP, the case plan to include a description of the type of in-home or institution-based services to encourage the safety, stability, and appropriateness of the next placement, including the

recommendations of the CFT, if available, as well as a plan for the provision of discharge planning and family-based aftercare support for at least six months following discharge.

- 11) Modifies the IPC determinations regarding STRTP entrance criteria by:
 - a) Expanding the scope of an IPC's determination to include youth who are subject to a petition filed with the juvenile court to adjudicate them as a dependent, as specified in current law;
 - b) Deleting determination criteria stating that a child's needs can only be met by the level of care provided in an STRTP; and,
 - c) Including among the determination criteria the condition that the child is assessed as having a behavioral disorder or disturbance requiring an STRTP setting.
- 12) Requires, on and after October 1, 2021, each county to designate an individual or individuals to serve as the QI, as defined by provisions of this bill, and, further, requires the QI be designated for each child or NMD whose proposed placement is reviewed by the IPC.
- 13) Requires the QI, working in conjunction with the CFT and within 30 days of the start of each placement into an STRTP, to do all of the following:
 - a) Assess the strengths and needs of the child or NMD, using an age-appropriate, evidence-based, validated, functional assessment tool authorized by CDSS;
 - b) Develop a list of child-specific short- and long-term mental and behavioral health goals; and,
 - c) Determine whether the needs of the child or NMD can be met in a home-based family setting, or, if not, which setting would provide the most effective and appropriate care setting for the youth in the least restrictive environment and be consistent with the short- and long-term goals for the youth, as specified in the youth's permanent plan. Further, requires that a determination of least restrictive setting document whether any needed supports or services were identified but not available that may have enabled placement in a less restrictive setting;
- 14) Requires the QI, if the QI determines that the child or NMD should not be placed in a home-based family setting, to determine in writing all of the following:
 - a) The reasons why the needs of the child or NMD cannot be met in a home-based family setting;
 - b) Why the recommended placement in an STRTP will provide the most effective and appropriate care setting in the least restrictive environment; and,
 - c) How the placement is consistent with the short- and long-term goals specified in the permanent plan.
- 15) Prohibits a shortage or lack of family homes from being an acceptable reason for determining that the needs of the child or NMD cannot be met in a home-based family setting.

- 16) Requires the IPC, if the QI determines that the placement in an STRTP is not appropriate for the youth, to disapprove the placement, and, further, requires, if the youth has been placed pending the assessment and determination of the QI, to be transitioned to an alternative, suitable placement.
- 17) Applies the provisions of this bill related to placement review by the IPC to placements funded by Aid to Families with Dependent Children-Foster Care (AFDC-FC).
- 18) Expands the list of approved placement options in which a youth must be placed in order to be eligible for AFDC-FC to include a residential family-based treatment facility for substance abuse that is licensed by current law, as specified, in which an eligible child is placed with a parent in treatment, and the placement and facility meets all of the requirements enumerated in federal law.
- 19) Makes Legislative findings and declarations that implementation of Part IV of the federal Family First Prevention Services Act of 2018 affects eligibility for federal financial participation for certain placement settings available to children and youth in foster care in California.
- 20) Requires CDSS, on or before October 1, 2021, to clarify the conditions under which federal financial participation is available for each AFDC-FC eligible placement, as specified.
- 21) Permits CDSS to implement, interpret, or make specific provisions of this bill related to federal financial participation for AFDC-FC eligible placement by means of all county letters (ACLs) or similar written instruction until regulations are adopted, and, further, establishes these ACLs or similar written instructions as having the same force and effect as regulations until the adoption of regulations.
- 22) Deletes the ability to place a child in an STRTP based upon an assessment that the child requires the level of services provided by an STRTP in order to meet their behavioral or therapeutic needs, and instead permits a child to be placed in an STRTP if the child has been assessed as having a behavioral disorder or disturbance that requires an STRTP setting.
- 23) Expands the reasons for which an IPC may approve an AFDC-FC-funded child for placement in an STRTP to include a determination that the child has been assessed as having a behavioral disorder or disturbance requiring an STRTP setting.
- 24) Expands certain roles and duties of the IPC to include the participation of the QI, as specified.
- 25) Prohibits, on or after October 1, 2021, AFDC-FC from being used to fund placement in an STRTP for more than 30 days from the date that the QI or IPC determined that placement in an STRPT is no longer recommended.
- 26) Expands the entities that must be informed in writing that a child or youth placed in an STRTP is not in need of the STRTP's care and services to include the responsible county mental health plan.
- 27) Expands the definition of "child and family team" to have the same meaning as "family and permanency team" as defined in current federal law, and, further, requires a CFT for a child

determined to meet certain criteria for placement into an STRTP to include all appropriate biological family members, relatives and NREFMs, and, as appropriate, any other, as specified.

- 28) Requires, on and after October 1, 2021, a CFT for a child placed into an STRTP to provide input on:
- a) Determinations by a QI for a child placed into an STRTP;
 - b) Certain required components of the case plan; and,
 - c) Development of a discharge plan that addresses the findings of the child's needs and strengths assessment and that identifies family-based aftercare supports or services that will be provided for at least six months after discharge from an STRTP, as specified by provisions of this bill.
- 29) Requires CDSS to seek approval from the Secretary of the U.S. Department of Health and Human Services for authorization to permit employees of the child welfare or probation agency to serve as the QI who conducts certain assessments, as specified.
- 30) Further, requires the request for approval to articulate how CDSS will certify that county employees designated as QIs will maintain objectivity with respect to determining the most effective and appropriate placement for a child or NMD, and, further, requires, if the approval is granted, CDSS to issue guidance to counties regarding the conditions under which the QI may be an employee of the county child welfare or probation agency.
- 31) Permits CDSS to implement, interpret, or make specific certain provisions of this bill related to QIs by means of ACLs or similar instructions until regulations are adopted, and further, deems these ACLs or similar written instruction as having the same force and effect as regulations until the adoption of regulations.
- 32) Expands the requirement that, if placement in an STRTP is selected for a child, the child's case plan include the child's needs that necessitate the placement, as specified, to apply to NMDs who are placed in STRTPs.
- 33) Adopts changes in accordance with changes made by the federal Family First Prevention Services Act of 2018:
- a) States Legislative intent to exercise the option afforded to states under federal law to receive federal financial participation for the prevention services described in federal law that are provided for a candidate for foster care, or a pregnant or parenting foster youth, and the allowable costs for the proper and efficient administration of the program, as specified, and further, states Legislative intent that the prevention services provided pursuant to certain provisions of this bill will improve the safety and well-being of children by strengthening and supporting families so that children can remain safely in their homes.
 - b) Defines "candidate for foster care" as a child who is identified in a prevention plan as being at imminent risk of entering foster care, but who can remain safely at home with their parent, guardian, or kin caregiver as long as prevention services are provided.

- c) Permits a child to be considered at imminent risk of foster care when the county or tribe caseworker determines, based upon an in-person assessment, that prevention services are necessary to mitigate the child's risk of entry or reentry into foster care, and one or more of the following criteria are met:
 - i) The child's risk assessment score, using an assessment tool approved by CDSS, is high or very high;
 - ii) The child's safety assessment, using an assessment tool approved by CDSS, indicates the presence of at least one safety threat to the child;
 - iii) The child is a dependent of the juvenile court pursuant to current law, and is receiving services under a family maintenance case plan;
 - iv) The child has one or more siblings or half-siblings placed into foster care;
 - v) The child's adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement;
 - vi) The child is an Indian child, as defined by current federal law, and the child's tribe has indicated prevention services are necessary for the child to remain in their home or the home of an Indian custodian or caregiver;
 - vii) The child is a ward of the court, and the probation department, using an imminent risk tool approved by CDSS, has determined that prevention services are necessary to prevent the child's entry into foster care; or,
 - viii) The youth is a NMD under 21 years of age who is eligible for extended foster care, and their living arrangement is at risk of a disruption that would result in the youth reentering foster care, as specified.
- d) Prohibits a child from being a candidate for foster care while simultaneously residing in foster care.
- e) Defines "child" as a minor under 18 years of age, or a nonminor under 21 years of age who is eligible to reenter foster care, as specified in current law.
- f) Defines "pregnant or parenting foster youth" as a child or NMD in foster care who is a parent, or an expectant parent of an unborn child.
- g) Defines "prevention plan" as a written document that meets certain requirements enumerated in federal law, as specified.
- h) Defines "prevention services" as the services or programs enumerated in federal law, as specified.
- i) Permits a county, or Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state, as specified, to elect to provide prevention services as described by the provisions of this bill by providing written notice to CDSS, in accordance with instructions issued by CDSS.

- j) Permits a county, Indian tribe, consortium of tribes, or tribal organization that elects to provide prevention services to provide those services for a child who is a candidate for foster care, or a child in foster care who is a pregnant or parenting foster youth, for a period of up to twelve months.
- k) Requires a county or tribal entity that elects to provide the prevention services enumerated by the provisions of this bill to do all of the following:
 - i) Conduct an in-person assessment by a caseworker to determine a child or youth's eligibility for prevention services;
 - ii) Document the child or youth's eligibility for services in the child or youth's prevention plan, in addition to certain information about prevention strategies;
 - iii) Develop and implement a written prevention plan for the child or youth using a model approved by CDSS;
 - iv) Document all prevention services cases in the state Child Welfare Services/Case Management System, or any successor system;
 - v) Ensure that prevention services are provided using a trauma-informed approach;
 - vi) Monitor the safety of a child or youth receiving prevention services, as specified;
 - vii) Conduct period risk assessment for the child or youth while prevention services are being provided, in addition to certain requirements placed on caseworkers ; and,
 - viii) Collect and report any information or data necessary to CDSS for federal financial participation, federal reporting, or evaluation of the services provided, including, but not limited to, child-specific information and expenditure data, as specified.
- l) Requires CDSS to conduct, or contract for, a well-designed and rigorous evaluation of each prevention service provided pursuant to certain provisions of this bill, as specified.
- m) Prohibits certain provisions of this bill related to from applying to a prevention service for which the state has received a federal waiver of the evaluation requirements, as enumerated in current federal law.
- n) Instructs CDSS to seek all necessary federal approvals to obtain federal financial participation for the prevention services specified by the provisions of this bill.
- o) Prohibits a county child welfare agency or county probation department, or tribal entity that entered into an agreement with the state, as specified, from being eligible to claim federal financial participation for the prevention services described by the provisions of this bill, prior to CDSS obtaining all necessary federal approvals.
- p) Requires a county or tribal entity that elects to provide the prevention services described by the provisions of this bill to pay the nonfederal share of the cost for providing these prevention services.

- q) Instructs a county or tribal entity to use federal funds received pursuant to the provisions of this bill to supplement, and not supplant, existing funds for local or state foster care prevention expenditures, as specified in federal law.
- r) Prohibits a county or tribal entity from using local or state foster care prevention expenditures utilized for the state maintenance of effort, as described in current federal law, for the nonfederal share of the cost of providing prevention services described by the provisions of this bill.
- s) Prohibits a county or tribal entity from using certain federal funds to pay for prevention services for which another public or private program is responsible for payment, except when necessary to prevent a delay in the timely receipt of prevention services by a child or family, and, further, permits the county or tribal entity to use certain federal funds to pay a prevention services provider pending reimbursement from the public or private program that is ultimately responsible for payment, as specified.
- t) Requires CDSS and the California Department of Healthcare Services (DHCS) to develop guidance identifying what prevention service provided pursuant to the provisions of this bill may be eligible for payment under the Medi-Cal program, and a model joint written protocol for counties and tribal entities to determine what program is responsible for payment for a prevention service provided on behalf of a child under the provisions of this bill, as specified.
- u) Instructs a county or tribal entity that elects to provide prevention services pursuant to the provisions of this bill to establish a joint written protocol with certain entities, as specified, for determining whether another program is responsible for payment for a prevention service provided on behalf of a child, and, further, requires the county or tribal entity to use the model protocol developed by CDSS and DHCS, or an equivalent approved by CDSS.
- v) Authorizes CDSS to have oversight of the prevention services provided pursuant to the provisions of this bill, and, further, permits CDSS to implement, interpret, or make specific the provisions of this bill related to prevention services by means of ACLs or similar instructions until regulations are adopted.
- w) Designates the ACLs or similar written instructions provided by CDSS as having the same force and effect as regulations until regulations are adopted.

34) Makes technical and conforming 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. (WIC 16000)

- 3) Defines a “short-term residential therapeutic program” as a residential facility operated by a public agency or private organization and licensed by CDSS that provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term 24-hour care and supervision to children. Further, requires the care and supervision provided by an STRTP be nonmedical, except as otherwise permitted, as specified. (Health and Safety Code Section 1502 (a)(18))
- 4) Allows a STRTP to accept for placement a child who has been assessed as meeting the medical necessity criteria for Medi-Cal Specialty Mental Health Services (SMHS), and the child has been assessed as seriously emotionally disturbed or if the child has been assessed as requiring the level of services provided by the STRTP in order to meet their behavioral or therapeutic needs, as specified. (WIC 11462.01 (b)(3)(A),(B), and (D))
- 5) Enumerates the roles and responsibilities of interagency placement committees as it relates to the placement of dependents and wards into STRTPs, group homes operating at a rate classification level 13 or 14, as specified, and out-of-state residential programs, as specified. (WIC 4096 (a))
- 6) Requires an interagency placement committee to, as appropriate, make certain requirements, with recommendations from the CFT, within 30 days of placement, and further requires the interagency placement committee, if, with recommendations from the CFT, it determines the placement is appropriate, to transmit the approval, in writing, to the county placing agency and the STRTP. (WIC 11462.01(h)(3)(A)(i) and (ii))
- 7) Defines “child and family team” to mean a group of individuals convened by a placing agency who are engaged through team-based processes to identify the strengths and needs of a child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being, as specified. (WIC 16501(a)(3))
- 8) Requires a “family and permanency team” consist of all appropriate biological family members, relatives, and fictive kin of the child, as well as, as appropriate, others who are a resources to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. Further, requires the family and permanency team, for a child who has attained age 14, to include members of the permanency planning team for the child that are selected by the child, as specified. (42 U.S.C. 675a(c)(1))
- 9) Enumerates requirements for certain reports made to the court, as specified, by social workers, court appointed advocates, and probation officers, including topics about which the report contains a factual discussion, including a youth’s health and education summary, whether the youth has any siblings under the court’s jurisdiction, and what actions have been taken by the youth’s parent to correct the problems that caused the child to be made a dependent child of the court, among others. (WIC 366.1, 366.3, 366.31, and 706.5).
- 10) Declares the case plan as the foundation and central unifying tool in child welfare services, and requires a child welfare/probation case plan, whichever is applicable, to include certain

information, including, but not limited to: assessment of child and family needs; consideration of the CFT recommendations; the needs of a child necessitating placement in an STRTP, if applicable; a description of the circumstances that resulted in the minor being placed under the supervision of the probation department and in foster care; and, identify specific goals and the appropriateness of services in meeting those goals, among others, as specified. (WIC 16501.1 and 706.6)

- 11) Establishes the types of placements in which a child or NMD may be placed in order to qualify for AFDC-FC, including: the approved home of a relative; the licensed family home of a nonrelative; and, the approved home of a NREFM. (WIC 11402)

FISCAL EFFECT: Unknown

COMMENTS:

Child welfare services: California's Child Welfare Services (CWS) system exists to protect children from abuse and neglect, and in doing so, to 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 like a doctor or teacher, Child Protective Services is tasked with investigating the report. If the allegation of abuse or neglect is substantiated, it is then determined whether it is in the best interest of the child to remain in their parent's custody or be placed within the CWS system. If a child is suspected to be at risk of neglect, abuse, or abandonment, the juvenile court holds legal jurisdiction, and the CWS system appoints a social worker to ensure that the needs of a youth are met. As of January 2020, there were 59,156 youth between the ages of 0 and 21 placed in California's CWS system.

Continuum of Care Reform (CCR): Beginning in 2015, 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, AB 1930 (Stone), Chapter 910, Statutes of 2018, and AB 819 (Stone), Chapter 777, Statutes of 2019.

Short-term residential therapeutic programs (STRTPs): A key component of CCR was the goal of reducing youth placement in congregate care facilities and placing youth in family homes in the community. Under CCR, traditional group homes were permitted to transition to STRTPs, which provide short-term, 24-hour care and supervision to youth, and are intended to provide short-term mental health interventions to stabilize, support, and transition youth with high-level mental health needs to lower levels of care. As part of its program model, an STRTP must make available a core set of trauma-informed, culturally relevant services and must be prepared to provide a broad range of services that are tailored to the individual needs of a child. STRTPs are required to obtain a contract with a county mental health plan in order to provide specialty mental health services to youth, and must demonstrate the ability to meet the individual

therapeutic needs of each child. According to data provided by CDSS, as of January 31, 2020, there were 346 licensed STRTP facilities in California with a total licensed capacity of 4,153, and as of January 1, 2020, there were 3,342 youth placed in STRTPs and traditional group homes throughout California.

STRTP placement: criteria and process: In order to be placed in an STRTP, a youth must be assessed as not requiring inpatient care in a licensed health facility, and as needing the level of services provided by STRTPs to maintain the safety and well-being of the child or those around them. Youth must also meet at least one of the following criteria:

- Meet the medical necessity criteria for Medi-Cal SMHS, as determined by a licensed mental health professional;
- Be assessed as seriously emotionally disturbed or has been assessed as such through an Individualized Education Plan; or,
- Be assessed as requiring the level or services provided by an STRTP in order to meet the child’s behavioral or therapeutic needs.

Placement in an STRTP must be approved by an IPC that has considered the recommendations of a CFT. An IPC is composed of representatives from the county placing agencies and county mental health plans, and may include representatives of other county agencies that serve the youth, such as school staff or public health or nursing staff. Existing law enumerates criteria for IPC review and approval of placements into STRTPs and requires the IPC to review all available assessments of the child to make an informed decision regarding the appropriateness of placement in an STRTP. It should be noted that emergency placements of a child into an STRTP are permitted without prior determination by the IPC if certain specific criteria are met.

Federal Family First Prevention Services Act (FFPSA): On February 9, 2018, President Trump signed H.R. 1892 (Larson), P.L. 115-123, which included the FFPSA and which aimed to reform child welfare services systems across the country by adopting two major changes:

Expansion of Title IV-E funds to focus on prevention: One of the largest changes made by FFPSA was expanding the use of Title IV-E funds—named for Title IV-E of the Social Security Act and which provides federal funding for states and tribes to provide foster care, transitional independent living programs for children, guardianship assistance, and adoption assistance for children with special needs—on services that would prevent the entry of children into foster care.

Prior to FFPSA, states were permitted to use federal Title IV-E funds for children once they were placed in the child welfare system. Under FFPSA, states are able to claim federal reimbursement for approved prevention services prior to a child being placed in foster care in order to allow “candidates for foster care” to remain with their parents or kin caregivers. To be considered a candidate for foster care under federal law, a child must be in a prevention plan, be at imminent risk of entering foster care, and be able to remain safely in their home or in a placement with kin, so long as prevention services to keep the child out of foster care are provided. FFPSA also allows prevention services to be provided to a child in foster care who is pregnant or parenting, as well as the parents or kin caregivers of pregnant/parenting foster youth and candidates for foster care.

Allowable services under FFPSA that are eligible for Title IV-E funds include: mental health and substance abuse prevention and treatment services provided by a qualified clinician; and in-home parent skills-based programs, including parenting skills training, parent education, and individual and family counseling. These allowable services are limited to a 12-month period that begins on the date on which the child is identified in a prevention plan as either a candidate for foster care or a pregnant/parenting youth in need of services or programs. It should be noted that states are permitted to offer a variety of services above and beyond what is enumerated in federal law; however, Title IV-E funds for prevention services may only be used on the specific prevention services deemed allowable under FFPSA.

On April 12, 2018, the U.S. Department of Health and Human Services (HHS) Administration for Children and Families issued a memorandum to states, tribes, and territorial agencies explaining various aspects of FFPSA. The memo describes the requirements a state must meet if it elects to provide prevention services and programs, including:

- Maintain a written prevention plan for the child that lists the services or programs provided to or on behalf of the youth, and identify/describe the foster care prevention strategy for the youth or for any child born to the youth, if applicable, among others;
- Require that services or programs provided to youth utilize a trauma-informed approach that recognizes and responds to the effects of all types of trauma;
- Require programs be provided in accordance with general and promising, supported, or well-supported practices;
- Collect and report to HHS certain information about each child, including the specific services or programs provided, the duration of those services, and the child's placement status at the beginning and end of the 12-month period; and,
- Have a well-designed and rigorous evaluation strategy for any promising, supported, or well-supported practices.

Reduction of the number of youth in congregate care settings: The second component of FFPSA included the goal of reducing states' use of congregate or residential group care, commonly referred to as group homes, and which, as a result of CCR, include California's STRTPs. In order to facilitate this goal, FFPSA permitted states to claim Title IV-E funds for foster care maintenance payments (FCMP) on behalf of an eligible child who is placed in a Child Care Institution for up to two weeks. Exceptions to the two week limitation on claiming federal funds exists if the child is placed in certain settings, including, among others, a "qualified residential treatment program" (QRTP). QRTPs must meet a number of requirements, including:

- Have a trauma-informed treatment model designed to meet the needs of children with serious emotional or behavioral disorders or disturbances;
- Facilitate participation of family members in the child's treatment program to the extent appropriate and in accordance with a child's best interests;
- Facilitate outreach to the child's family members, document how the outreach is made, and maintain contact information for any known family;

- Document how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;
- Provide discharge planning and family-based aftercare support for at least six months post-discharge;
- Be licensed in accordance with Title IV-E requirements and be accredited by one of several accrediting bodies; and,
- Have registered or licensed nursing staff and other licensed clinical staff who provide care on-site according to the treatment model, and who are available 24 hours a day and 7 days a week.

FFPSA also required that a qualified individual assess the child and determine the appropriateness of a placement in a QRTP and specified that, if the assessment is not completed within 30 days after the placement is made, Title IV-E FCMP cannot be claimed for the duration of the placement. A QI is defined as a trained professional or licensed clinician who is not an employee of the placing agency, and who is not connected to, or affiliated with, any placement setting in which children are placed; however, HHS may waive the QI requirements if it certifies that the trained professionals or licensed clinicians will maintain objectivity with respect to determining the most effective and appropriate placement for the child. When placing a child in a QRTP, a family and permanency team for the child must be assembled and consist of appropriate family members and professionals, and the child's case plan must include certain information about efforts made to include relevant individuals on the family and permanency team, as well as the written recommendation by the QI about the appropriateness of the QRTP placement, among other information.

FFPSA also included a number of provisions related court oversight of QRTP placements, and required the court, within 60 days of the start of each QRTP placement, to consider the appropriateness of the placement, determine whether the needs of the child can be met through placement in a foster family home, and either approve or disapprove of the placement. The court is also required to review certain information about the child and the placement at each status review and each permanency hearing held for the child.

Need for this bill: The provisions of this bill seek to conform state law to the requirements set forth by the federal Families First Prevention Services Act of 2018. In recent years, California has undergone a number of systemic changes aimed at reforming its child welfare services system to better serve children and families. Most recently, CCR, among other things, embraced the goal of reducing the placement of youth in congregate care settings and sought to place more children in home-based settings, either with kin or approved caregivers. Certain requirements of FFPSA bear similarities to processes and requirements of California's child welfare system. For example, STRTPs share a number of similarities with QRTPs, though FFPSA places additional programmatic requirements on QRTPs, requires a QI to recommend the placement, and requires court approval or disapproval of the placement, among others. In addition, requirements of family and permanency teams resemble requirements of CFTs under state statute. The provisions of this bill seek to conform state law to federal law in order to maintain continued federal funding as well as leverage federal funding for prevention services that aim to prevent the placement of children into the child welfare system and improve child safety, well-being, and outcomes over time.

According to the author, “Changes proposed in [this bill] build off of the systematic efforts continuing to be made to California’s foster care system through the Continuum of Care Reform, and of which are necessary to maintain continued federal funding on and after October 1, 2021. [This bill] also provides for the ability to leverage new federal funding available through FFPSA for federally-approved services to prevent youth from entering or re-entering foster care.”

Staff comments: The provisions of this bill implement a number of changes to California’s child welfare system in order to provide prevention services to qualified children and families and further limit the use of congregate care settings. As with all legislation that implements major systemic reform, robust discussion among stakeholders is necessary to ensure all perspectives are considered. Should this bill move forward, committee staff recommends that the author continue to work with representatives of the Legislature, CDSS, counties, child welfare advocates, and other relevant stakeholders to discuss, among other things, all of the following:

- 1) ***How will the existing rate structure for STRTPs support the additional requirements placed on these programs?*** Provisions of this bill place a number of new requirements on STRTPs, including the requirement that STRTPs develop individualized discharge plans for children, provide discharge and family-based aftercare support, and ensure nursing staff are onsite and available 24 hours a day, 7 days a week. While these changes would align STRTP requirements to similar requirements placed on QRTPs, it is unclear how the existing rate structure for STRTPs will support these additional requirements.
- 2) ***How will county placing agencies comply with requirements related to a QI?*** Provisions of this bill define a QI as a trained professional or licensed clinician responsible for conducting determinations regarding the most effective and appropriate placement for a child. This bill also prohibits the QI from being an employee of a county child welfare or probation agency and from being connected to, or affiliated with, any placement setting. This bill does require CDSS to seek approval from the Secretary of HHS to permit employees of the child welfare agency or probation agency to serve as the QI; however, the process for submitting and receiving a waiver to this requirement is unclear, as is the associated timeline for waiver submission and subsequent approval or denial. Further, it is unclear how counties will comply with this particular requirement until such a time that a federal waiver is approved.
- 3) ***How will the state ensure that candidates for foster care who receive prevention services are afforded the same supports and services as children who are placed into care?*** A core component of the child welfare system is the provision of legal representation to children and parents to ensure the protection of their rights, as well as the provision of foster care payments to caregivers, which, as a result of California’s emphasis on placing children with relatives in order to maintain familial ties, is often kin. It is unclear how the provisions of this bill will ensure adequate legal representation to children and families, as well as financial support to relative caregivers.
- 4) ***How will the state determine whether a child is at “imminent risk of being in foster care”?*** Provisions of this bill reflect requirements set forth by FFPSA that in order to qualify for prevention services, a youth must be at imminent risk of being in foster care, but be able to remain safely in their home. It is unclear what criteria will be used to determine whether a child is in danger enough to be at risk of placement in the child welfare system, but is also

safe enough to remain in their home. It is also unclear what additional protections will be implemented to ensure that children at risk of being in foster care do not suffer abuse or neglect that would warrant their placement in the child welfare system.

- 5) *How will California ensure that prevention services are available across the state to all children and families that require them?* Currently, the language of this bill permits counties and certain tribal organizations to provide prevention services for children who are candidates for foster care, or a foster child who is pregnant or parenting, for a period of up to twelve months. Due to the permissive nature of this allowance, it is unclear how the state will ensure that children and families have access to high-quality prevention services, regardless of the whether the county in which they reside has elected to provide these services.

PRIOR LEGISLATION:

AB 2944 (Stone) of 2020, furthers CCR efforts made by AB 403, AB 1997, AB 404, and AB 1930. AB 2944 is scheduled to be heard by the Assembly Human Services Committee on May 7, 2020.

SB 1019 (McGuire) of 2020, requires a youth's case plan, prior to discharge from an STRTP, to include a post-discharge plan for the provision of supports and services for the youth and their family for at least 6 months post-discharge, among other requirements. SB 1019 is currently awaiting referral by the Senate Rules Committee.

H.R. 1895 (Pascrell), P.L. 116-94, 2019, known as the Family First Transition Act, provided financial resources to states and tribes to implement the federal FFPSA.

SB 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.

H.R. 1892 (Larson), P.L. 115-123, 2018, included provisions known as the federal Families First Prevention Services Act, and authorized states to expend federal funds on prevention-related services and supports.

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)
Child Abuse Prevention Center

Opposition

None on file

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