

Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 865 (Reyes) – As Amended April 1, 2019

SUBJECT: Resource family approval: training

SUMMARY: Requires information related to human trafficking to be provided to resource family applicants during the preapproval caregiver training process, and requires annual caregiver training to include in-person training on best practices for providing care to children who have been trafficked. Specifically, **this bill:**

- 1) Includes information on providing care and supervision to children who have been trafficked, including commercial sexual exploitation and labor trafficking, among the existing components on which resource family applicants must receive a minimum of 12 hours of preapproval caregiver training.
- 2) Specifies that “information” on providing care and supervision to children who have been trafficked may include, but not be limited to, informational pamphlets addressing the identification of trafficking victims and provision of existing resources, such as crisis hotline numbers, survivor and caregiver supports, and contact information for law enforcement entities.
- 3) Deletes training related to commercially sexually exploited children from topics that a county may require a caregiver or applicant to complete specialized training on, as specified, and instead includes in-person training on understanding how to use best practices for providing care and supervision to children who have been trafficked, including commercial sexual exploitation and labor trafficking, among the topics on which resource families are required to complete 8 hours of training annually.
- 4) Requires the in-person training to be survivor-informed, culturally relevant and appropriate, and address issues relating to stigma, and, further, requires the training to address all of the following topics:
 - a) Recognizing indicators of human trafficking;
 - b) Harm reduction;
 - c) Trauma-informed care;
 - d) Available county and state resources;
 - e) Perspectives of individuals or families who have experiences with human trafficking; and,
 - f) The information on providing care and supervision to children who have been trafficked, as defined by the provisions of this bill.
- 5) 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 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. (Welfare and Institutions Code [WIC] 300.2)
- 2) 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)
- 3) States that any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services is guilty of human trafficking and shall be punished, as specified. (Penal Code [PEN] 236.1(a))
- 4) States that any person who causes or persuades, or attempts to cause or persuade, a person who is a minor to engage in a commercial sex act, with the intent to effect a violation of specified sex offenses, is guilty of human trafficking and shall be punished as specified. (PEN 236.1(c)(1) and (2))
- 5) Defines "commercial sex act" as sexual conduct on account of which anything of value is given or received by any person. (PEN 236.1 (h)(2))
- 6) Defines "commercially sexually exploited children" as a child who is sexually trafficked or receives food or shelter in exchange for the performance of certain sexual acts, as specified. (WIC 300)
- 7) Establishes the "Commercially Sexually Exploited Children Program (CSEC)" administered by CDSS in order to create a multidisciplinary team approach to case management, service planning, and provision of services to commercially sexually exploited youth. (WIC 16524.7 et seq.)
- 8) Requires CDSS to, no later than April 1, 2017, report certain information to the Legislature related to the CSEC Program, including the participating counties, the number of victims served by each county, and the types of services provided, among others. (WIC 16524.10)
- 9) Requires county child welfare agencies and probation departments to implement policies and procedures related to identification of and provision of services to CSEC victims, as specified. (WIC 16501.35)
- 10) Requires counties ensure that resource family applicants complete a minimum of 12 hours of preapproval caregiver training on certain topics, including, the effects of trauma, including grief and loss, child abuse and neglect, on child development and behavior, health issues in foster care, permanence, well-being and education needs of children, and the cultural needs of children, among others. (WIC 16519.5 (g)(13))

- 11) Requires counties to ensure that resource families complete a minimum of eight hours of caregiver training annually, to be comprised of various topics, as specified. (WIC 16519.5 (g)(14))
- 12) Allows a county to require a resource family or applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care, including, understanding how to use best practices for providing care and supervision to commercially sexually exploited children, children who are lesbian, gay, bisexual, and transgender, and nonminor dependents, among other topics. (WIC 16519.5 (h))

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, provides 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 October 2018, there were 59,487 youth between the ages of 0 and 21 placed in California's CWS system.

Continuum of Care Reform: Over the past four years, California has enacted legislation, known as the Continuum of Care Reform (CCR), to improve placement and treatment options for youth in foster care. AB 403 (Stone), Chapter 773, Statutes of 2015, sponsored by the California Department of Social Services (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, and AB 1930 (Stone), Chapter 910, Statutes of 2018.

Resource Family Approval: process and requirements: The Resource Family Approval (RFA) program, authorized by AB 340 (Hancock), Chapter 464, Statutes of 2007, and on January 1, 2017, SB 1013 (Senate Committee on Budget) Chapter 35, Statutes of 2012, implemented RFA statewide. RFA is a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship approval processes. 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.

Part of RFA included comprehensive training requirements for both resource family applicants, and individuals who have been approved as resource families. Specifically, resource family applicants must undergo 12 hours of preapproval caregiver training on a variety of topics,

including: an overview of the child protective and probation systems, the effects of trauma on child development, positive discipline and the importance of self-esteem, and health issues in foster care, among others. Approved resource families are required to complete a minimum of eight hours of annual caregiver training on a variety of topics, including a resource family's responsibility to act as a reasonable and prudent parent, and to provide a family setting that promotes normal childhood experiences and that serves the needs of the child. Current law also allows a county to require a resource family or resource family applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care. Among these topics is how to use best practices for providing care and supervision to commercially sexually exploited children. The provisions of this bill would remove the optional nature of this training and would instead include human trafficking (which includes both labor and sex trafficking) among the topics on which resource families are required to complete 8 hours of training annually.

Human trafficking: The Department of Homeland Security defines human trafficking as modern-day slavery involving the use of force, fraud, or coercion to obtain some type of labor or commercial sex act. According to the United Nations Office for Drugs and Crime:

- 51% of identified victims of trafficking are women, 28% are children, and 21% are men;
- 72% of people exploited in the sex industry are women;
- 63% of identified traffickers are men, and 37% are women; and,
- 43% of victims are trafficked domestically within national borders.

Commercial sexual exploitation: Commercial sexual exploitation of children is defined as the “sexual exploitation of children entirely, or at least primarily, for financial or other economic reasons”. The exchanges for commercial sex acts can be either monetary or non-monetary (i.e. food, shelter, or drugs). Sex trafficking of minors is defined as the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act” where the person is a United State citizen or lawful permanent resident under the age of 18 years.

According to the Alameda County Human Exploitation and Trafficking Watch Unit, nearly 98% of CSEC victims in the United States are female and the National Center for Missing and Exploited Children estimated that in 2014, one in six endangered runaways were likely sex trafficking victims. It is also estimated that 50-80% of child victims of commercial sexual exploitation have been involved in the child welfare system. Challenges to serving victims also arise when identifying victims, collecting and cross-referencing data, and deciding on common definitions across various state and federal agencies in order to collect accurate statistics. Also, many youth do not self-identify as victims or may be reluctant to admit to victimization due to fears of retaliation from traffickers, deportation, or incarceration by law enforcements. To address this final concern, SB 1322 (Mitchell), Chapter 654, Statutes of 2016, decriminalized prostitution for minors under 18 years old citing the fact that minors cannot legally consent to sex, and as such, cannot engage in prostitution. As a result, minors who are victims of sex trafficking, who otherwise would have been incarcerated for prostitution, can receive services and supports through the child welfare system.

Labor trafficking of minors: While the term “human trafficking” can evoke images of sex trafficking in the form of prostitution of victims by traffickers, trafficking can also occur in the form of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and agricultural work, and, like sex trafficking, through the use of force, fraud, or coercion. The United State Trafficking Victims Protection Act of 2000 defines labor

trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

According to the International Labor Organization, out of the 24.9 million people trapped in forced labor, nearly 4 million are children. Children trafficking survivors are among the most vulnerable, as children can be paid the least, exploited the most, and because of their legal incapacity, often have no access to resources; their vulnerability is also magnified by their physical, emotional, and financial dependence on adults, according to Freedom Network USA. Oftentimes child survivors of labor trafficking suffer through longer periods of exploitation and abuse due to law enforcement and social services providers failing to identify them as trafficking victims in a timely manner. While child employment is permissible under certain circumstances, trafficking occurs when the employer causes the child to believe that they have no other choice but to continue with the work. Many children who are labor trafficking victims are also victims of other crimes, such as sexual abuse, child pornography, and child abuse or neglect.

Need for this bill: The provisions of this bill seek to bring greater awareness to the issue of human trafficking as it intersects with the foster care system. By requiring information to be provided to resource family applicants, and then requiring training for approved resource families as a part of the require annual caregiver training, the provisions of this bill may provide caregivers with the knowledge and resources necessary to detect and prevent youth experiences of and vulnerability to trafficking, and to care for victims of human trafficking.

According to the author, “[This bill] standardizes curriculum for foster youth caregivers pertaining to risk factors for human trafficking, including commercial and sexual exploitation within the foster care system. Human trafficking is a persistent problem nationally where the FBI estimate that over 100,000 children are victims in the United States alone. Foster youth are particularly vulnerable, and according to the National Foster Youth Institute (NFYI), 60% of all child sex trafficking victims have histories in the child welfare system. This bill is critical to ensure foster youth are able to thrive in households that recognize the potential risk-factors and triggers associated with human trafficking in order to better support the youth they serve.”

Recommended amendments: In order to ensure clarity related to the components of the annual caregiver training, *committee staff recommends the following technical amendments:*

1) Beginning on line 9 on page 18 of the bill, make the following amendments:

- 5 (iii) Trauma-informed care.
- 6 (iv) Available county and state resources.
- 7 (v) Perspectives of individuals or families who have experiences
- 8 with human trafficking.
- 9 ~~(vi) (C) The information provided in subparagraph of (P) of~~
- 10 ~~paragraph (13) shall also be provided during the in-person training as described in~~
- ~~subparagraph (B). this training.~~
- 11 (h) In addition to any training required by this section, a county
- 12 may require a resource family or applicant to receive relevant
- 13 specialized training for the purpose of preparing the resource family
- 14 to meet the needs of a particular child in care. This training may
- 15 include, but is not limited to, the following:

PRIOR LEGISLATION:

AB 2207 (Eggman), Chapter 757, Statutes of 2018, placed a deadline of January 1, 2020, on the requirement in law that CDSS, in consultation with stakeholders, must develop model policies, procedures, and protocols to assist counties achieve certain goals related to the commercial sexual exploitation of youth receiving child welfare services.

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

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

SB 1322 (Mitchell), Chapter 654, Statutes of 2016, decriminalized prostitution for individuals under 18 years of age.

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.

SB 794 (Senate Human Services Committee), Chapter 425, Statutes of 2015, implemented provisions of the federal Preventing Sex Trafficking and Strengthening Families Act, including conforming state with federal law in the areas of sex trafficking prevention and data collection, and the state's reasonable and prudent standards, among other things.

SB 855 (Senate Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2014, created the CSEC Program within CDSS to further address the needs of the CSEC population.

H. R. 4980 (Camp), P.L. 113-183, 2014, known as the Preventing Sex Trafficking and Strengthening Families Act, made changes to Title IV-E of the Social Security Act and required state agencies to demonstrate that policies and procedures have been developed to identify, document, and determine appropriate services for a child or nonminor dependent who is at risk of becoming a sex trafficking victim.

H.R. 3244 (Smith), P.L. 106-386, known as the Trafficking Victims Protection Act of 2000, amended the Violence Against Women Act, and established and strengthened programs to ensure that U.S. citizens do not purchase products made by victims of human trafficking, and to prevent child marriage.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Alliance of Child and Family Services
Children's Law Center of California
Coalition to Abolish Slavery & Trafficking
East Bay Children's Law Offices
Legal Services for Children
National Center for Youth Law
National Council of Jewish Women California

Peace Over Violence
Women's Foundation of California, Women's Policy Institute Trauma Justice Team

Opposition

None on

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