

Date of Hearing: August 3, 2020

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

SB 1259 (Hurtado) – As Amended June 18, 2020

SENATE VOTE: 39-0

SUBJECT: Licensed adult residential facilities and residential care facilities for the elderly:
SSI/SSP recipients: report

SUMMARY: Requires the California Department of Social Services (CDSS) to establish a task force to issue a report that includes recommendations on how to meet the housing and care needs of recipients of the Supplemental Security Income (SSI) and State Supplementary Payment (SSP) programs for the aged, blind and disabled. Specifically, **this bill:**

- 1) Makes Legislative findings and declarations regarding the growth of California's elderly homeless population and the role of board and care facilities in providing housing and supervision to individuals who cannot safely live on their own.
- 2) Requires CDSS to establish a task force to issue a report, on or before January 1, 2023, that includes recommendations on how to meet the housing and care needs of the recipients of SSI/SSP benefits.
- 3) Requires CDSS to update the Senate and Assembly Health and Human Services budget subcommittees on its progress in developing the report, at or before, the first budget subcommittee hearings of the 2021-22 and 2022-23 budget process.
- 4) Requires that the task force include representatives from CDSS, Licensed Adult Residential Facilities (ARFs) and Residential Care Facilities for the Elderly (RCFEs), Department of Developmental Services (DDS), Department of Health Care Services (DHCS), county mental health and human services departments, advocates for individuals with behavioral and mental issues, anti-poverty advocates, a representative of the long-term care ombudsperson, and advocates for older adults.
- 5) Requires that the task force collaborate with relevant stakeholders while developing the report.
- 6) Requires that the task force does all of the following in the report:
 - a) Identify the existing capacity for licensed ARFs and RCFEs that serve residents who receive SSI/SSP benefits; this includes identifying the existing capacity for residents with serious mental illness;
 - b) Access the unmet demand for licensed ARF and RCFE placements for SSI/SSP recipients within each county; this includes assessing the unmet demand for residents with a serious mental illness;
 - c) Identify gaps in the collected data and recommend actions that would close the data gaps;

- d) Recommend how to build the capacity of licensed ARF and RCFE placements for SSI/SSP recipients;
 - e) Identify strategies to ensure SSI/SSP recipients are residing in facilities that are appropriately licensed to meet the residents' care needs;
 - f) Make recommendations on implementing the levels of care plan for RCFEs, as specified; and,
 - g) Make any other recommendations that are deemed appropriate by the majority of the task force members that would enhance the quantity or quality of licensed ARFs and RCFEs that serve SSI/SSP recipients.
- 7) Defines "serious mental illness" as a mental disorder identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) that is severe in degree and persistent in duration, as specified.

EXISTING LAW:

- 1) Establishes the SSI Program to provide cash assistance to meet the basic needs of aged and blind individuals and individuals with disabilities. (42 U.S. Code [USC] 1381 et seq.)
- 2) Establishes the state SSP program for people who are aged, blind or disabled, which is intended to supplement federal SSI and provide persons whose need results from age, blindness, or disability with assistance and services that help them meet basic needs and maintain or increase independence. (Welfare and Institutions Code Section [WIC] 12000 et seq.)
- 3) Establishes the California Community Care Facilities Act (CCFA) and requires CDSS to administer and license community care facilities providing nonmedical services, including ARFs and RCFEs, among others. (Health and Safety Code Section [HSC] 1500 et seq.)
- 4) 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 the activities of daily living or for the protection of the individual. (HSC 1502 (a)(1))
- 5) Establishes the California Residential Care Facilities for the Elderly Act to provide for the licensure and regulation of RCFEs as a separate category within the existing licensing structure of CDSS. (HSC 1569 et seq.)
- 6) Defines "adult residential facility" as any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to persons 18 years of age through 59 years of age. (22 California Code of Regulations [CCR] 80001(a)(5))
- 7) Defines "residential care facility for the elderly" to mean a housing arrangement chosen voluntarily by individuals ages 60 and older, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon residents varying needs, as determined in order to be admitted and to remain in the facility. (HSC 1569.2(p)(1))

- 8) Establishes that a licensee of a RCFE shall not require any form of preadmission fee or deposit from a recipient under the State Supplementary Program for the Aged, Blind, and Disabled. (HSC 1569.651 (a))

FISCAL EFFECT: According to the Senate Appropriations Committee on June 18, 2020, this bill would likely have unknown, limited-term, significant cost (mid- to high-hundreds of thousands, General Fund) for the CDSS staffing resources. Typically, similar bills that propose to establish a workgroup, task force, or Commission, are around \$800,000 (General Fund), for workload to administer and facilitate task force meetings, support task force membership, coordinate research, and draft and submit a report to the Legislature. It would also have unknown, potentially significant cost-pressures to implement specified recommendations to be identified in the report.

COMMENTS:

Community Care Facilities: The CCFA, enacted in 1973, seeks to provide a new system of community-based care facilities for the elderly and disabled who require additional supervision and services that are determined to be nonmedical. Facilities established under the act provide care to individuals with disabilities, seniors, children in foster care, families who need early child education, and those with severe behavioral, emotional, or mental disorders. CDSS administers the community-based housing options provided through the CCFA.

Residential Care Facility for the Elderly (RCFE): An RCFE, established under the CCFA, is a type of adult facility that provides nonmedical care and supervision to individuals with certain daily living needs. However, these facilities primarily offer support to those 60 years or older who do not need 24-hour services. RCFE populations often have functional and cognitive impairments that limit their ability to complete various living tasks, but their medical conditions are managed either by themselves or by an outside medical professional.

Adult Residential Facility (ARF): An ARF, established under the CCFA, is a type of facility that provides nonmedical care and services to residents age 18-59, or those 60 and older who meet specific requirements. These facilities are open 24-hours a day and assist those with a mental, physical, or developmental disability. Residents of ARFs can receive assistance with a variety of daily living tasks such as housekeeping, personal hygiene upkeep, bathing, dressing, distribution of medication, and general supervision. While ARFs do not commonly provide skilled nursing services, these facilities may offer this option if a credentialed Registered Nurse (RN) or Licensed Vocational Nurse (LVN) is on staff.

Supplemental Security Income (SSI) and State Supplementary Payment (SSP): The SSI, established and funded at the federal level, provides monthly cash grants to those who are disabled, blind, or elderly and may not be able to work or afford living expenses on their own. In California, specified individuals who qualify for SSI also automatically qualify for the state-funded equivalent known as SSP. The SSP benefit is funded by the General Fund, allowing California to set its rates without federal guidance. The cash amount that a recipient receives is determined by a variety of factors, including living arrangements, marital status, whether the recipient is a minor, elderly, blind, or living with a disability.

A recipient of SSI/SSP may choose to live in a licensed residential facility; however, federal guidelines provide the rate structure under this circumstance. Residential facilities that accept

SSI/SSP recipients may only receive the Non-Medical Out of Home Care (NMOHC) payment. The NMOHC breaks down to approximately \$35 per day to the facility for housing and services rendered. Residential care facilities report that, on average, their operating costs range from \$2,500 to \$4,000 per month per resident. These costs are well above the monthly sum facilities receive through reimbursement for serving SSI/SSP recipients, which is why some facilities have stated they choose not to accept those receiving the benefit.

Senior Homelessness: According to the United States Department of Housing and Urban Development's (HUD) last estimate in 2019, over 151,278 individuals are experiencing homelessness across our state. These numbers, in addition to not accurately reflecting 2020 rates of homelessness, can also be assumed to be inaccurate due to the amount of homeless individuals who never enter the shelter system in California. The rise in homelessness numbers can be attributed to many factors like rising healthcare costs, lack of affordable housing, and dwindling retirement options, the latter which leaves seniors particularly vulnerable.

In their latest report, HUD also reports that the number of individuals 62 and older experiencing homelessness jumped 68.5% from 2007 to 2017. In addition, a study conducted by Los Angeles, Boston, and New York City in 2019 estimates that the number of homeless seniors 65 years and older will triple by the year 2030. While homelessness continues to increase, it is reported by HUD that 53% of the unhoused individuals are located in California. In attempts to counteract these numbers, the state continues to offer early intervention methods and social welfare supports through shelters and nonprofit organizations.

Senate Human Services Oversight Hearing on Licensed Homes for Vulnerable Adults: The Senate Human Services Committee held an oversight hearing in February 2020 on licensed homes for vulnerable adults with a focus on ARF and RCFE regulations. The committee explored the vital role that these facilities play in addressing and preventing senior homelessness across the state; however, it became apparent through the hearing that there was widespread concern over the lack of these facilities accepting low-income individuals and the rate at which these facilities were closing throughout the state. Low reimbursement rates for SSI/SSP recipients and high facility operation costs were cited as partial reasoning for the shortage. Stakeholders expressed worry that owners of facilities were possibly choosing to collect the high payout of property sales rather than continuing to cover reimbursement shortfalls. CCLD, responsible for licensure, does not keep records of the statistics necessary to assess the situation thoroughly and is unable to determine if the placements available are matching the growing need. The oversight report states, "Though a total loss of 1,018 beds in all of Los Angeles County may not seem drastic, if all 1,018 beds were in facilities that accepted SSI/SSP facilities that could represent a severe shortage for that specific, especially vulnerable population." This statement was supported by anecdotal evidence; however, significant gaps in the data remain.

Need for this bill: This bill seeks to establish a task force that would compile data to inform recommendations on how to meet the housing and care needs of SSI/SSP recipients. The language requires this task force explicitly to explore the unmet demand for licensed ARF and RCFE placements for those receiving SSI/SSP. Individuals that receive this benefit are disabled, blind, or elderly and often are unable to work to afford living expenses, leaving them particularly vulnerable in our state's affordable housing crisis. Due to the lack of housing, recent closures of board and care facilities, and compounding economic stress, this population is increasingly vulnerable to becoming homeless. This legislation would produce a report developed by well-

versed stakeholders that could help inform the Senate and Assembly in future solutions to this particular concern.

According to the author, “Homelessness is a complex and pervasive problem that requires a multi-faceted solution. This bill seeks to define the scope of the problem with finding housing and assistance within assisted living facilities for people who are elderly or disabled and have very little or no income – specifically those who receive SSI/SSP payments. Counties throughout the state have reported with alarm that housing options for low-income individuals have been shrinking. Of particular concern is the lack of housing for individuals with serious mental illness. We hear reports of assisted living facilities closing down due to the high cost of doing business and in response to the once-soaring real estate market. However, due to data limitations and the evolving economic impact of the COVID-19 pandemic, the true scope of the problem is unclear. We do know that a shrinking economy will likely increase the need for suitable housing options for people who are on SSI/SSP as people who are on the fringe typically fall deeper into poverty during a recession. This bill will require important steps toward defining and solving the problem of limited housing options for people who are on SSI/SSP by requiring the CDSS to establish a task force for the purpose of issuing a report that includes recommendations on how to meet the housing and care needs of low-income individuals who are blind, disabled or over 65 years of age and receiving SSI/SSP.”

RELATED AND PRIOR LEGISLATION:

AB 1766 (Bloom) of 2020 requires CDSS to collect and post certain information regarding licensed ARFs and RCFEs and their capacity to serve certain defined populations, including people with serious mental disorders, those with developmental disabilities, and those who receive SSI/SSP payments. AB 1766 was set to be heard by the Senate Human Services Committee but was canceled at the request of the author.

AB 2377 (Chiu) of 2020 establishes closure requirements for ARFs and expands protections for the residents of these facilities. AB 2377 was set to be heard by the Senate Human Services Committee but was cancelled by the committee.

SB 944 (Mello), Chapter 888, Statutes of 1991, among other things, provided legislative intent to develop and implement a plan to establish three levels of care under the RCFE license, subject to future Budget Act appropriations and statutory authorization to implement levels of care.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies
CA Behavioral Health Planning Council
Cal Voices (formerly NorCal MHA)
California Assisted Living Association
California Commission on Aging
California State Association of Counties
County Behavioral Health Directors Association
East Bay Supportive Housing Collaborative
National Alliance on Mental Illness (NAMI-CA)

National Association of Social Workers, California Chapter
Shelter Partnership
The California Association of Local Behavioral Health Boards and Commissions

Opposition

None on file

Analysis Prepared by: Emmalynn Mathis / HUM. S. / (916) 319-2089