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## SENATE COMMITTEE ON HUMAN SERVICES

Senator Alvarado-Gil, Chair

2023 - 2024 Regular

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**Bill No:** AB 426  
**Author:** Jackson  
**Version:** June 28, 2023  
**Urgency:** Yes  
**Consultant:** Heather Hopkins  
**Hearing Date:** July 3, 2023  
**Fiscal:** Yes

**Subject:** Unlicensed residential foster care facilities: temporary placement management

### SUMMARY

This bill increases penalties and oversight when foster youth are housed in unlicensed facilities.

### ABSTRACT

#### Existing Law:

- 1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (*WIC 202*)
- 2) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, emotionally abused, neglected, or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm. (*WIC 300.2*)
- 3) Requires, in order to ensure that coordinated, timely, and trauma-informed services are provided to children and youth in foster care who have experienced severe trauma, each county to develop and implement a memorandum of understanding (MOU) setting forth the roles and responsibilities of agencies and other entities that serve children and youth in foster care who have experienced severe trauma. (*WIC 16521.6(a)*)
- 4) Establishes licensing and regulatory oversight by the California Department of Social Services (CDSS) over, among other places, residential care facilities and licensed foster family homes for foster children. (*HSC 1500 et seq.*)
- 5) Establishes the “California Community Care Facilities Act” (CCFA) and requires CDSS to administer and license community care facilities providing nonmedical services, including adult residential facilities and short-term residential therapeutic programs (STRTPs), among others. (*HSC 1500 et seq.*)

- 6) Defines “community care facility” as any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, individuals with physical disabilities or mental impairments and abused or neglected children. (*HSC 1502(a)*)
- 7) Requires CDSS, to ensure that a facility licensed by and a home certified or approved by a foster family agency to provide foster care, as provided, shall accord children and nonminor dependents in foster care their personal rights, including, but not limited to, the rights enumerated in the Foster Youth Bill of Rights. Further requires CDSS to adopt regulations to implement and enforce the provision of these rights. (*WIC 1530.91(c)*)

**This Bill:**

- 1) Requires an unlicensed residential foster care facility be assessed by CDSS an immediate civil penalty in the amount of five hundred dollars (\$500) for each foster child or youth residing in the facility per day of the violation.
- 2) Requires the civil penalty to be assessed beginning on the day of unlicensed facility is issued a formal statement of allegations by CDSS.
- 3) Provides that in addition to the civil penalty above, if a person fails to locate appropriate placements for all of the foster children and youth residing in the unlicensed facility within 60 days after receiving the formal statement of allegations, they shall be assessed by CDSS an immediate civil penalty in the amount of five thousand dollars (\$5,000) for each remaining foster child or youth residing in the unlicensed facility per day of the violation.
- 4) Allows for an appeal of the assessment to the director of CDSS.
- 5) Requires CDSS to adopt regulations setting the appeal process.
- 6) Provides it is the intent of the Legislature in enacting this section to empower CDSS to take quick, effective action to protect the health and safety of all foster children and youth in unlicensed residential foster care facilities.
- 7) Defines “residential foster care facility” or “facility” as a facility that provides 24-hour nonmedical care and supervision to foster children or youth, but does not include a private foster family home, small family home, or certified family home.
- 8) Defines “temporary placement manager” means a person, corporation, or other entity, appointed temporarily by CDSS as a substitute facility placement manager or administrator with authority to hire, terminate, or reassign staff, obligate facility funds, alter facility procedures, and manage the appropriate placement of a foster child or youth.
- 9) Requires CDSS to provide an initial statement of allegations to a residential foster care facility if CDSS has reason to believe that the facility is not licensed, and is endangering

the welfare of foster care children or youth in the facility.

- 10) Provides that within 48 hours of providing the initial statement of allegations, the department shall provide the facility with a formal statement of allegations. The formal statement of allegations shall specify the department's factual and legal basis for appointing, 60 calendar days after the formal statement of allegations is issued, a temporary placement manager to locate appropriate placements for any foster children or youth residing in the unlicensed facility, and operate the facility until all appropriate placements have been arranged. The formal statement of allegations shall be supported by the declaration of the director or the director's authorized designee.
- 11) Provides that upon appointment, the temporary placement manager shall take all necessary steps and make best efforts to arrange appropriate alternative placements for all foster children and youth in the facility.
- 12) Provides that the appointment of a temporary placement manager is effective 61 calendar days after CDSS issues the formal statement of causes and concerns, and continues until the temporary placement manager notifies CDSS, and CDSS verifies, that appropriate placements have been arranged for all foster children and youth in the facility.
- 13) Provides that a temporary placement manager shall not be appointed if the facility arranges appropriate placements for all children and youth residing in the facility before the end of the 60-day time period.
- 14) Provides that the appointment of a temporary placement manager authorizes the temporary placement manager to act pursuant to this section, and shall be made pursuant to an agreement between the temporary placement manager and CDSS that outlines the circumstances under which the temporary placement manager may expend funds. The temporary placement manager shall make no long-term capital investments to the facility without the permission of CDSS.
- 15) Provides that the temporary placement manager appointed pursuant to this section shall meet the following qualifications:
  - a. Be qualified to oversee correction of deficiencies on the basis of experience and education.
  - b. Not have been found guilty of misconduct, and not be the subject of any pending action or investigation, by any licensing board.
  - c. Not currently serve, or have served within the past two years, as a member of the staff of the facility.

### **FISCAL IMPACT**

This bill has not yet been analyzed by a fiscal committee.

## BACKGROUND AND DISCUSSION

### **Purpose of the Bill:**

According to the author, “Youth who have been removed from their home and placed into foster care are one of the most vulnerable populations in our state. Yet, time and time again California has turned a blind eye while counties across the state continue to house foster youth in inappropriate settings that are not conducive to their safety, permanency, and well-being. In 2021, there were reports of Fresno County housing children who were waiting to be placed in foster homes inside child welfare offices and sleeping on floors and desks. Most recently, reports surfaced that since August of 2022, Sacramento County has placed foster youth in a former juvenile detention facility that is unlicensed, and in violation of multiple health, safety, and fire code laws, claiming it is the safest and best option as they continue to seek viable solutions for placements in licensed settings. As a state, it is our duty and responsibility to ensure foster youth are not put in harm’s way. When we allow counties to house foster youth in unfit facilities, we are not only telling youth that their well-being is not a priority, but we are signaling to them that residing in detention centers is their inevitable future.”

The author further states, “AB 426 seeks to remedy this issue by sanctioning the California Department of Social Services (CDSS) to issue a statement of allegations and a statement of cause and concerns to a county if CDSS has a reason to believe that the welfare of foster youth in an unlicensed facility is being endangered. This bill also imposes civil penalties in the amount of \$500 and \$5000 for each foster youth residing in a facility per day for endangering the welfare of foster youth and for failing to make appropriate placements for each foster youth per day, respectively. AB 426 further adds an urgency clause to immediately ensure the safety and welfare of children and youth in unlicensed foster care facilities.”

### *Child Welfare Services System*

California’s child welfare services (CWS) system is an essential component of the state’s safety net. Social workers in each county who receive reports of abuse or neglect investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child’s well-being and avoid court involvement, or a child is removed and placed into foster care. In 2022, the state’s child welfare agencies received 440,212 reports of abuse or neglect. Of these, 51,806 reports contained allegations that were substantiated and 19,953 children were removed from their homes and placed into foster care via the CWS system.

Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county’s juvenile dependency court. The dependency court holds legal jurisdiction over the child, while the child is served by a CWS system social worker. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. The CWS system provides multiple opportunities for the custody of a foster child, or the child’s placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child’s social worker to help provide the best possible services to the child. It is the state’s goal to reunify a foster child or youth with their biological family whenever possible. In instances

where reunification is not possible, it is the state's goal to provide a permanent placement alternative, such as adoption or guardianship, with other relatives or nonrelative extended family members, or with Resource Families.

### *Recent Reforms*

There have been system-wide efforts to institute a series of reforms to California's CWS system. They are designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. These reforms are designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care. Assembly Bill 403 (Stone, Chapter 773, Statutes of 2015) was the first of six CDSS-sponsored continuum of care reform bills and provided the statutory and policy framework to ensure services and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family.

### *Housing Foster Youth in Unlicensed Facilities*

There have been multiple reports across the state of foster youth placed in unlicensed settings, including former juvenile detention centers, hotels, and office buildings.

Recent Los Angeles Times reporting highlights numerous occasions of foster youth in Los Angeles being housed in unlicensed hotels. They further reported instances of social workers being attacked while looking after youth staying in hotel rooms, with one youth having been placed under psychiatric holds over twenty times.

In Fresno, in 2021 reports surfaced of foster youth sleeping on floors and desks inside child welfare offices, with no facilities to bathe. County officials, citing the new child welfare building would not be open for another month, moved the youth into ten vacant county offices near the fairgrounds. There were no showers, and the facility was not licensed, making placement there against the law.

Similar reports came out of Madera County. There a single minor with severe mental health issues was housed in a county office for multiple months. The youth was reported to not speak English and was supervised 24-hours a day by staff and security. An anonymous source did report to the Fresno Bee that the youth had later been placed.

Most recently, Sacramento County was in the news for housing youth in unlicensed facilities for months on end. Foster youth were reported to have been housed in a former youth detention facility since 2022. The county did, at one point, apply for licensure for the facility, but was denied. The state sent the county a letter in February requiring them to move the children. Yet, for months after, children remained in the unlicensed facility. Even after the state barred Sacramento County from placing more youth in the former juvenile detention facility, the county continued to place youth there. "This action is in direct violation of the May 16, 2023, Notice of Application Denial which prohibited youth from being admitted to the WET (Warren E. Thornton Youth) Center after May 16," stated the June 5 letter from DSS to Melissa Lloyd,

deputy director of the county's Department of Child Protective Services. "A civil penalty of \$200 per day is being assessed for the youth being admitted to an unlicensed community care facility beginning on May 30, 2023, and will continue until all youth are removed from the WET Center." As of June 16, fines to the county totaled \$3,600. For a county with a multi-billion dollar budget, such a fine is virtually inconsequential to their bottom line. As of June 20, 2023 no foster youth remain in placement in the detention facility.

On June 27, 2023 the Sacramento County Superior Court approved a stipulated Final Judgement between Sacramento County and the Youth Law Center. According to the Youth Law Center, the hope is that this agreement with court oversight marks a new chapter in Sacramento County that includes licensed emergency placements, increased community and family-like settings, expanded community based therapeutic supports and robust family finding and engagement. The Sacramento County Superior Court will have jurisdiction over this Final Judgement for five years.

#### *Penalties for Placement in Unlicensed Facilities*

Generally when youth are found to be placed in an unlicensed facility, CDSS would issue a notice of violation of law and give the operator an opportunity to submit an application. If an application is not submitted, then civil penalties may be assessed. It is unclear how often violations are noticed and if and when civil penalties have been assessed and enforced.

Under existing law, the civil penalty is \$200 per day. This amount has not been updated since 1985. Using the United States Bureau of Labor Statistics inflation calculator, the fine adjusted for inflation should be \$596. This bill proposed to make the fine \$500 per day per youth for the first 60 days, and \$5,000 per day per youth thereafter.

### **COMMENTS**

This bill seeks to increase penalties and oversight when foster youth have been placed in unlicensed facilities. The author's hope is that this will discourage such behavior and ensure foster youth are housed only in licensed facilities.

### **SUPPORT/OPPOSITION**

#### **Arguments in Opposition:**

The County Welfare Directors Association writes, "While well-intentioned, AB 426 is the wrong approach to addressing the significant issues currently facing the child welfare system. As has been publicly reported for more than a year now, the lack of treatment options for complex needs youth is resulting in counties utilizing unlicensed facilities such as offices and hotel rooms in lieu of licensed alternatives. A CWDA survey of counties found hundreds of instances of such situations last year alone. This is not the situation any county director wants, but it is what counties face when there are not enough appropriate licensed settings – either family based or congregate – who will accept our children and youth for placement and provide them with the treatment and services they desperately need."

**PRIOR VOTES**

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| Assembly Floor:                                       | 77 - 0 |
| Assembly Appropriations Committee:                    | 11 - 0 |
| Assembly Housing and Community Development Committee: | 8 - 0  |

**POSITIONS**

**Support:**

None received

**Oppose:**

County Welfare Directors Association of California

**-- END --**