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THIRD READING

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Bill No: AB 426  
Author: Jackson (D)  
Amended: 9/1/23 in Senate  
Vote: 21

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SENATE HUMAN SERVICES COMMITTEE: 4-1, 7/3/23  
AYES: Alvarado-Gil, Hurtado, Menjivar, Wahab  
NOES: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 6-3, 7/11/23  
AYES: Umberg, Durazo, Laird, Min, Stern, Wiener  
NOES: Wilk, Ashby, Niello  
NO VOTE RECORDED: Allen, Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23  
AYES: Portantino, Ashby, Bradford, Wahab, Wiener  
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 77-0, 5/25/23 - See last page for vote

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

**SOURCE:** Author

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**DIGEST:** This bill authorizes the California Department of Social Services (CDSS) to assess a civil penalty of \$1000 per day of violation and authorizes CDSS to apply existing procedures to counties for noncompliance

**ANALYSIS:**

## 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. (Welfare & Institutions Code (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. (Health & Safety Code (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) Provides that if the director of CDSS believes a county is substantially failing to comply with specified provisions or regulations pertaining to any program administered by CDSS, and the director determines that formal action may be necessary to secure compliance, the director shall inform the county welfare director and board of supervisors of that failure. The county shall then have 30

days to correct their failure to comply with the law or regulation. If the county does not comply or provide reasonable assurances in writing it will comply the director may take further action. (WIC § 10605)

This bill:

- 1) Authorizes CDSS to assess an immediate civil penalty of \$1,000 per day of violation on a person who provides residential care to children without a valid community care facility license.
- 2) Requires the director of CDSS, if a county is failing comply with current law, to inform the county welfare director and the board of supervisors by written notice to identify the legal compliance issues and provide a minimum of 10 days for county response
- 3) Adds the Community Care Facilities Act to Welfare & Institutions Code Section 10605 which allows DSS to take actions when counties are failing to comply with the law.

### Comments

- 1) *Author's statement.* 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."
- 2) *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.

- 3) *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. AB 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.
- 4) *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.

- 5) *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.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to Senate Appropriations Committee, the California Department of Social Services (CDSS) estimates no fiscal impact.

**SUPPORT:** (Verified 9/5/23)

California Commission on Aging  
Youth Law Center

**OPPOSITION:** (Verified 9/5/23)

None received

**ASSEMBLY FLOOR:** 77-0, 5/25/23

**AYES:** Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**NO VOTE RECORDED:** Aguiar-Curry, Mathis, Papan

Prepared by: Heather Hopkins / HUMAN S. / (916) 651-1524  
9/7/23 11:30:32

\*\*\*\* END \*\*\*\*