

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Alex Lee, Chair
AB 2126 (Elhawary) – As Introduced February 18, 2026

SUBJECT: Community care facilities: criminal background exemptions

SUMMARY: Requires the California Department of Social Services (CDSS) to provide an exemption from disqualification to former or current foster youth applying for specified roles in facilities governed by the Community Care Facilities Act if their non-excluded offenses were committed before they reached 21 years of age, and redefines peer support specialist.

Specifically, **this bill:**

- 1) Requires CDSS or other approving entity after reviewing the criminal record to grant an exemption from disqualification to a foster care provider applicant, resource family applicant, tribally approved home applicant, or any person subject to the background check requirements of existing law pursuant to the foster care provider applicant, resource family approval (RFA), tribally approved home, respite care provider standards, short-term residential therapeutic program (STRTP) provider applicant, community treatment facility provider applicant, and a group home provider applicant who has been convicted of a specified offense, if the individual is a current or former foster youth and the crimes were committed before they reached 21 years of age.
- 2) Prohibits any additional requirement for evidentiary showing for individuals who meet the criteria.
- 3) Specifies that the provisions above only apply to current and former foster youth who will be employed in a peer support capacity and do not apply to youth intended to be employed in a caregiving capacity.
- 4) Adds the following to the current definition of peer support specialist for the purposes of a peer support specialist certification: A current or former foster youth shall be eligible based on their experience of trauma and having lived experience in the process of recovery and system navigation.

EXISTING LAW:

- 1) Establishes the Community Care Facilities Act, which allows for the licensure and oversight of out-of-home placements for abused and neglected children by CDSS. (Health and Safety Code [HSC] § 1500 *et seq.*)
- 2) Establishes the Community Care Licensing Division within CDSS and requires CDSS to license group care facilities, private foster family agencies, and foster family homes in order to place children who are in the child welfare system. Further requires, prior to licensure, a foster home provider to undergo a specified criminal background check. (HSC §§ 1502; 1522)
- 3) Requires CDSS to obtain a full criminal record, if any, for certain individuals, including adults responsible for administration or direct supervision of staff; any person, other than a

client, residing in the facility; any person who provides client assistance in dressing, grooming or bathing; and any staff person, volunteer, or employee who has contact with the clients, among others, for purposes of criminal record clearance. (HSC § 1569.17 (b))

- 4) Specifies that the following are not exemptible crimes for purposes of completing a criminal record clearance to work in a community care facility:
 - a) Assault with intent to commit specified felonies, including mayhem, rape, sodomy, oral copulation, rape/sexual penetration in concert, lewd acts on a child, and sexual penetration;
 - b) Sexual battery, which describes several forms of nonconsensual sexual touching, including while the victim is restrained, medically incapacitated, or under fraudulent “professional purpose” pretenses;
 - c) Rape or sexual penetration in concert, meaning committed while acting in concert with another person by force or violence and against the victim’s will;
 - d) Felony child endangerment/child abuse likely to produce great bodily harm or death;
 - e) The predecessor version of the same higher-level child abuse/endangerment offense;
 - f) Assault on a child under 8 years of age by force likely to produce great bodily injury resulting in death; the section also covers causing coma due to brain injury or permanent paralysis;
 - g) Willful infliction on a child of cruel or inhuman corporal punishment or injury resulting in a traumatic condition;
 - h) Lewd or lascivious acts with a child;
 - i) Sexual penetration which lists offenses that trigger sex offender registration under the Sex Offender Registration Act and includes offenses such as rape, sexual-assault-type assaults, sexual battery, child pornography offenses, and others;
 - j) Elder or dependent adult abuse, including abuse or neglect likely to cause great bodily harm or death and related elder/dependent-adult abuse offenses;
 - k) “Violent felonies” including: murder or voluntary manslaughter, mayhem, specified rape, specified sodomy, specified oral copulation, lewd acts, any felony punishable by death or life imprisonment, certain firearm felonies, robbery, specified arson, sexual penetration, attempted murder, kidnapping, assaults, continuous sexual abuse of a child, carjacking, rape/sexual penetration in concert, gang-related extortion and witness intimidation, certain occupied first-degree burglaries, and firearm-use violations;
 - l) Sexual exploitation by certain licensed or purported healing-arts professionals, such as a physician, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor; including sexual intercourse, sodomy, oral copulation, or sexual contact with a patient/client, or with a former patient/client if the relationship was ended mainly to engage in those acts;

- m) Torture;
 - n) Carjacking;
 - o) Poisoning food, drink, medicine, pharmaceutical products, or a water supply with a poison or harmful substance where the person knows or should know it may be taken by a human and cause injury;
 - p) Drawing or exhibiting a loaded firearm in a rude, angry, or threatening manner, or unlawfully using a loaded firearm in a fight or quarrel, on the grounds of a day care center or a facility/program for minors while open for use;
 - q) Arson causing great bodily injury. (HSC § 1522 (g))
- 5) Grants CDSS the authority to grant an exemption from disqualification for to a foster care provider applicant, resource family applicant, tribally approved home applicant, or any person subject to the background check requirements of this section pursuant to foster care provider applicant, RFA, tribally approved home, or respite care provider standards, who has been convicted of an offense not listed in 4) above, if the individual's state and federal criminal history information received from the Department of Justice (DOJ) independently supports a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption. (HSC § 1522 (g)(2)(D))
- 6) Establishes the Peer Support Specialist Certification Program. (Welfare and Institutions Code §§ 14045.10 - 14045.21.)

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS: This analysis only covers policy issues germane to the Assembly Committee on Human Services.

Background: *Child Welfare Services (CWS) System.* The CWS system aims to protect children who are at risk of, or are victims of, child abuse, neglect, or exploitation through an integrated service delivery system that provides prevention/intensive services to families to ensure enough child safety, permanency, and well-being to allow families to stay together in their own homes. CDSS serves as the state agency responsible for oversight, supervision, fiscal and regulatory guidance, and training, as well as developing policies, procedures, and programs in accordance with federal and state law.

When children are removed from their parents' custody, state and federal laws require that reasonable efforts be made to reunify the child with the parents or, in the case of an Indian child, the Indian Child Welfare Act applies. When it is not possible for the child to safely return to the home of the parents, the law requires that a permanent plan be determined for the child. The priority is finding a family member to care for the child, but when that is not possible, children may be placed in a family resource home, and if the child has more needs, a licensed STRTP or a community treatment facility.

Background Check Process. In order to be a resource family or be employed in a licensed facility, individuals must complete a background check to determine their suitability. As part of

the background check process, CDSS is responsible for obtaining state and federal criminal history information on any individual applying for a license, certification, registration, or approval. CDSS is responsible for processing and approving individuals to work in and around these children. For the children's residential program, there are two forms separated by placement. One for RFA, and the other for foster placements which include group homes, STRTPs, temporary housing placements, and temporary shelter care facilities.

An applicant or agency typically starts in the Guardian system, which is the online application program CDSS uses for all background checks, including adult programs. After submitting an application, an applicant then gets Live Scan fingerprinted and the information is sent back to the Guardian system. [Note: An applicant can get a Live Scan prior to submitting an application via Guardian.]

After the fingerprints are received in the Guardian system and, if flagged, CDSS then does a registry research check which can include the Administrative Actions Records System and the Child Abuse Central Index (CACI). The Administrative Actions Records System is a database housing information on negative legal actions, and CACI is a system with child abuse information. According to the Office of the Attorney General, "It is important to note that the effectiveness of the CACI is only as good as the quality of the information reported. Each agency that submits a report of substantiated child abuse or severe neglect is responsible for the accuracy, completeness and retention of the original reports. The CACI serves as a 'pointer' back to the original submitting agency."

Once those are finished, CDSS checks if there is a record of arrests and prosecutions (RAP) sheet. If a RAP sheet exists, this means that the individual has a criminal history of some kind, based on the results from the DOJ and/or the Federal Bureau of Investigation. CDSS examines criminal history that begins when an applicant turns 18 years of age, regardless of whether the arrest does not end in a conviction or if the conviction is later dismissed and/or expunged. There are three possible next steps if an RAP sheet exists.

- 1) If it is a non-exemptible conviction, the application is denied. There is a list of 60 non-exemptible offenses which include, but are not limited to, murder, rape, torture, kidnapping, and robbery;
- 2) If the crimes are eligible for exemption under current law, CDSS will send an exemption notification letter to the applicant or licensee and to the individual. Individuals awaiting an exemption may not be present in a facility until an exemption is granted. CDSS then makes a determination by reviewing the case and other required documentation, which could result in approval, conditional approval, or denial. When considering an exemption for individuals who have committed crimes that are exemptible, CDSS is required to consider a number of factors, including, but not limited to: the nature of the crime, including whether it involved violence; the period of time since the crime was committed and number of offenses; the circumstances surrounding the crime; activities since conviction, such as employment or participation in therapy or education; pardons granted; character references; a certificate of rehabilitation from a superior court; and, evidence of honesty and truthfulness. CDSS is also required to consider the individual's age at the time the crime was committed. CDSS has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure and employment or presence in a licensed facility; or,

- 3) If the RAP sheet is flagged as referral arrest, which means the individual has an arrest on their record that is on the referable arrest list, then CDSS will do an investigation, but cannot inform the agency which applicant is applying to work.

This bill would change the process as described in 2) above for current or former foster youth by eliminating the authority for CDSS to make a determination if an exemption is appropriate. And, instead, requires an automatic exemption for current and former foster youth working in a peer support capacity if the crime committed is not on the non-exemptible list as described in existing law above.

Peer Supports. It is widely recognized that individuals with lived experience in the CWS system offer support that is unique and beneficial to foster youth. Because they can draw from their own experiences and because they are not seen as part of the system, peer mentors are uniquely positioned to empathize with those they work to support and are able to build trusting relationships in a way that child welfare professionals cannot. According to the Administration for Children and Families, “having a peer mentor helps young people know they are not alone in their experiences and that can be very transformative.”¹ In mental health and substance use disorder treatments, peer support programs are considered an evidence-based practice. The United States Substance Use and Mental Health Services Administration determined that peer support is a crucial complement to the traditional service array, citing evidence that peer support models recovery and offers hope, increases self-esteem, confidence, and sense of control.² However, the CWS system does not have research to apply, but it is a growing practice across the country.

Foster Youth and the Juvenile Justice Intersection. It is not uncommon for a foster youth to have come into contact with law enforcement which would flag their background check for CDSS to further investigation. Youth in foster care are disproportionately represented in the justice system, with some studies showing roughly 70% of youth who exit care as legal adults are arrested at least once by 26 years of age.³ According to the California Child Welfare Indicators Project’s (CCWIP) point-in-time count, there are 1,077 probation-involved foster youth currently in care, which is significantly lower than when CCWIP began posting point-in-time data in 2016 at 4,211.⁴ The intersection between foster care and juvenile justice systems disproportionately impacts youth of color. While boundary-testing behavior in typical adolescents may result in grounding or conflict resolution, for a child in foster care, these behaviors often lead to police involvement, escalating the situation unnecessarily. Additionally, youth in foster care are at greater risk of being criminalized for behaviors stemming from unmet needs, such as mental health crises or histories of trauma.

Author’s Statement: According to the Author, “Support from those with lived experiences in foster care can often improve outcomes as families navigate complex systems. However, hiring barriers and administrative burdens consistently lead to the loss of these qualified peer workers. [This bill], through its background check exemption for current or former foster youth whose offenses occurred before the age of 21, allows agencies to hire peer partners more quickly and

¹ <https://acf.gov/sites/default/files/documents/cb/Recommendations-Improving-Permanency-Well-Being.pdf>

² <https://onlinelibrary.wiley.com/doi/10.1016/j.wpsyc.2012.05.009>

³ [https://journals.sagepub.com/doi/10.1177/1541204020939643#:~:text=Gael%2C%202012\).-,1,youth%20\(McRoy%2C%201994\).](https://journals.sagepub.com/doi/10.1177/1541204020939643#:~:text=Gael%2C%202012).-,1,youth%20(McRoy%2C%201994).)

⁴ <https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTSG/r/ab636/s>

enables individuals with lived experience to contribute to community care facilities. In doing so, [this bill] expands opportunity for those from foster care backgrounds and helps California hire qualified workers within its residential care system.”

Equity Implications: As described above, foster youth touch the legal system at higher rates than their peers and will therefore have more trouble when going through a criminal clearance process. Peer support is important to foster youth in the system, but roadblocks may prevent such connections. *This bill* may encourage more foster youth to seek peer support roles.

Policy Considerations: This bill includes several different licensing categories and they may not all be suitable for this bill. A resource family is a caregiver—including relatives, non-related extended family members, or foster parents—approved to provide 24-hour care, support, and stability to children in foster care. A Tribally Approved Home is a home licensed or approved by an Indian child’s tribe or organization designated by the tribe, for foster or adoptive placement of an Indian child. A foster care provider is a caregiver who provides a safe, temporary, 24-hour home for children removed from their birth families due to abuse or neglect. A respite care provider is someone who offers temporary relief to primary caregivers, allowing them to rest, travel, or manage personal tasks while ensuring their loved one continues to receive proper care. The nature of these types of providers are in a caregiving capacity, not a peer capacity. While a former foster youth with criminal records may be well-suited for these roles, it may pose a safety risk to include them in this bill.

Should this bill move forward, the author may wish to remove the paragraph requiring CDSS to grant an exemption from disqualification for former and current foster youth for foster care provider applicants, resource family approval, tribally approved home, and respite care provider standards.

This bill states that the automatic exemption shall only apply to current and former foster youth in a peer support capacity and does not apply to youth *intended* to work in a caregiving capacity. This language is vague and allows for caregiving to happen as long as it wasn’t intended.

Should this bill move forward, the author may wish to consider clarifying that if the individual performs any caregiving duties, they must go back through the normal background process.

This bill does not define what working in a peer support capacity means. By not defining this, peer support capacity could mean an array of duties which may not be suitable for this automatic background exemption.

Should this bill move forward, the author may wish to define the role of an individual employed in a peer support capacity.

A peer support specialist is a certification program that exists for mental health and substance use disorders and allows for Medi-Cal billing. Adding foster youth to the definition and not the program would result in confusion.

Should this bill move forward, the author may wish to strike this definition and instead define current and former foster youth.

Proposed Committee Amendments: In order to address the above policy considerations, the Committee proposes the author take the following amendments:

~~(E) Notwithstanding subparagraph (D), the department or other approving entity after reviewing the record shall grant an exemption from disqualification to a foster care provider applicant, resource family applicant, tribally approved home applicant, or any person subject to the background check requirements of this section pursuant to the foster care provider applicant, resource family approval, tribally approved home, or respite care provider standards, who has been convicted of an offense not listed in subparagraph (A) or (B), if the individual is a current or former foster youth and the crimes were committed before they reached 21 years of age. No additional evidentiary showing is required for individuals who meet the criteria of this paragraph. This paragraph applies to current and former foster youth who will be employed in a peer support capacity and does not apply to youth intended to be employed in a caregiving capacity.~~

...

(4) Notwithstanding subparagraph (D) of paragraph (2), the department or other approving entity after reviewing the record shall grant an exemption from disqualification, foster family agency provider, to a short-term residential therapeutic program provider applicant, community treatment facility provider applicant, and a group home provider applicant to the background check requirements of this section, who has been convicted of an offense not listed in subparagraph (A) or (B), if the individual is a current or former foster youth and the crimes were committed before they reached 21 years of age. No additional evidentiary showing is required for individuals who meet the criteria of this paragraph. This paragraph applies to current and former foster youth who will be employed in a peer support capacity and does not apply to youth intended to be employed in a caregiving capacity. A youth who is employed in a caregiving capacity shall go through a background check process as described in subparagraph (D) of paragraph (2)

For the purposes of this subdivision, the following terms have the following meanings:

(A) “Current and former foster youth” means a person whose dependency was established or continued by a court of competent jurisdiction, including a tribal court, on or after the youth’s 13th birthday.”

(B) “Peer support capacity” means working with foster youth to help them identify and express their needs, advocate for their rights, engage actively in their care plans for the purpose of developing life skills, building resilience, and fostering self-advocacy.

...

(g) “Peer support specialist” means an individual who is 18 years of age or older, who has self-identified as having lived experience with the process of recovery from mental illness, substance use disorder, or both, either as a consumer of these services or as the parent or family member of the consumer, and who has been granted certification under a county peer support specialist certification program. ~~A current or former foster youth shall be eligible based on their experience of trauma and having lived experience in the process of recovery and system navigation.~~

Double referral: Should this bill pass out of the committee, it will be referred to the Assembly Committee on Public Safety.

Arguments in support. According to the co-sponsors, California Alliance of Child and Family Services, “Peer partners play a critical role in supporting children and families involved in the child welfare, behavioral health, and juvenile justice systems. Their lived experience allows them to build trust, improve engagement, and help youth navigate complex systems. However, current background check requirements create significant delays for qualified peer applicants who have nonviolent offenses that occurred before age 21 - offenses that are often tied to trauma and instability experienced during adolescence.

“Under existing law, peer applicants must demonstrate “substantial and convincing evidence” of rehabilitation through an exemption-from-disqualification review process that can take up to fourteen months. Many cannot afford to wait that long for employment, and agencies lose highly qualified candidates who are ready and able to serve. The existing exemption process recognizes that youth-age offenses should not permanently bar individuals from meaningful employment, especially when their lived experience is a powerful asset in helping others. This bill would streamline the exemption process to ensure more qualified young people are not waiting for months for the state to affirm their capacity to heal and help others heal.”

Arguments in opposition. None on file.

RELATED AND PRIOR LEGISLATION:

AB 1720 (Holden), Chapter 581, Statutes of 2022, authorized CDSS to grant a simplified criminal record exemption to an applicant seeking a license or position within various community care facilities, as specified, and removed the requirement for those applicants to sign a declaration under penalty of perjury before the receipt of Live Scan results regarding prior criminal convictions.

SB 354 (Skinner), Chapter 687, Statutes of 2021, adopted changes to the criminal background check process during the RFA process for relatives of children placed in the child welfare system; permitted the court to authorize placement of children with relatives in certain circumstances, regardless of the status of any criminal exemption or RFA; and required CDSS to submit a report to the Legislature by January 1, 2024, related to specified criminal record exemptions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Alliance of Child and Family Services (Co-Sponsor)
Alliance for Children's Rights
Aspiranet
Association of Community Human Service Agencies
Aviva Family & Children's Services
Cal Voices
California Alliance of Caregivers
California Association of Alcohol and Drug Program Executives, INC.
California Youth Empowerment Network
Casa Pacifica Centers for Children and Families
Children Now
Children's Institute

County Welfare Directors Association of California
Hamburger Home dba Aviva Family and Children's Services
Lincoln Families
Mental Health America of California
Pacific Clinics
Rancho San Antonio Boys Home INC.
Redwood Community Services
Seneca Family of Agencies
Spiritt Family Services
The Children's Partnership
Vista Del Mar Child and Family Services
Wolf Strategies

Opposition

None on file.

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