

Assembly Bill No. 2129

Passed the Assembly August 19, 2010

Chief Clerk of the Assembly

Passed the Senate August 18, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 18987.7 and 18987.72 of, and to add Section 16524.5 and to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2129, Bass. Foster care: residentially based services.

Existing law provides for child welfare services, which are public social services directed toward, among other purposes, protecting and promoting the welfare of all children, including those in foster care placement. Existing law provides for the placement of children in foster care in various settings, including group homes, by foster placement agencies, under the oversight of the State Department of Social Services.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which, pursuant to a combination of federal, state, and county funds, aid on behalf of eligible children is paid to foster care providers.

Existing law requires the department to convene a workgroup of designated public and private stakeholders that will develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders into a system of residentially based services, as defined. Existing law requires the department, by January 1, 2011, to provide a copy of the plan developed by the workgroup to the Legislature.

This bill would extend the deadline for providing a copy of the plan developed by the workgroup to the Legislature to July 1, 2014.

Existing law authorizes the Child Welfare Services Program Improvement Fund to provide a comprehensive system of support to promote positive outcomes for children and families, by expending funds on various programs, upon appropriation by the Legislature.

This bill would allow the State Department of Social Services to fund various child welfare-related activities by means of grants from the fund, rather than by contract. This bill would also allow certain grants to be renewed, as specified.

Existing law requires the department to encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models to achieve specified objectives, and authorizes voluntary agreements between counties and nonprofit agencies to transfer all or part of an existing group home program into a residentially based services program, if specified conditions are met. Under existing law, these agreements are valid for a period not to exceed 5 years from January 1, 2008.

Existing law authorizes the department to waive otherwise applicable regulatory provisions and approve alternative funding models, in order to facilitate implementation of these agreements, and specifies the required characteristics of these alternative funding models. Under existing law, a waiver granted by the director under these circumstances, and the related alternative funding model, is prohibited from resulting in an increase in costs to the General Fund for AFDC-FC payments, measured on an annual basis.

This bill would revise requirements relating to the waivers and alternative funding models, to authorize higher AFDC-FC payments to children and youth enrolled in a residentially based services program, that are offset by cost efficiencies.

This bill would require the department to conduct reviews of the county residentially based services program, no sooner than 18 months after the first child's enrollment into the program, to determine the effectiveness of the program, as specified. The bill would authorize the department to terminate a county's participation in residentially based services reform if it determines that the county is not meeting specified objectives.

This bill would require agreements entered into pursuant to the residentially based services reform provisions to terminate on or before January 1, 2015.

The people of the State of California do enact as follows:

SECTION 1. Section 16524.5 is added to the Welfare and Institutions Code, to read:

16524.5. (a) The State Department of Social Services may fund the various activities authorized pursuant to Section 16524 by means of grants rather than contracts. The grants shall not be

subject to the review specified in Section 10295 of the Public Contract Code.

(b) The department may renew grants for the various activities authorized pursuant to Section 16524 that exceed three years in duration if the grant is reviewed annually and the grantee is found to be satisfactorily meeting the grant objectives.

SEC. 2. Section 18987.7 of the Welfare and Institutions Code is amended to read:

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited to, representatives of the department and of the State Department of Mental Health, the State Department of Education, the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision (b) of Section 18987.72 shall be utilized.

(d) By July 1, 2014, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to

the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.

SEC. 3. Section 18987.72 of the Welfare and Institutions Code is amended to read:

18987.72. (a) In order to obtain knowledge and experience with which to inform the process of developing and implementing the plan for residentially based services, required by Section 18987.7, the department shall encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models for transforming existing group home programs into residentially based services programs in order to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(b) (1) With the approval of the department, any counties participating in the federal Title IV-E waiver capped allocation demonstration project pursuant to Section 18260, at their option, and two other counties may enter into and implement voluntary agreements with private nonprofit agencies to transform all or part of an existing group home program into a residentially based services program.

(2) If one or more counties participating in the federal Title IV-E waiver capped allocation demonstration project opts not to enter into a voluntary agreement pursuant to this chapter, the department may select one or more nonwaiver counties. The department may approve up to four counties to participate in the voluntary agreements pursuant to this section.

(3) The department shall select participating counties, based on letters of interest submitted to the department from counties, in consultation with the California Alliance of Child and Family Services and the County Welfare Directors Association.

(c) Voluntary agreements by counties and nonprofit agencies shall satisfy all of the following requirements:

(1) Incorporate and address all of the components and elements for residentially based services described in the “Framework for a New System for Residentially-Based Services in California.”

(2) Reflect active collaboration among the private nonprofit agency that will operate the residentially based services program and county departments of social services, mental health, or

juvenile justice, alcohol and drug programs, county offices of education, or other public entities, as appropriate, to ensure that children, youth, and families receive the services and support necessary to meet their needs.

(3) Provide for an annual evaluation report, to be prepared jointly by the county and the private nonprofit agency. The evaluation report shall include analyses of the outcomes for children and youth, including achievement of permanency, average lengths of stay, and rates of entry and reentry into group care. The evaluation report shall also include analyses of the involvement of children or youth and their families, client satisfaction, the use of the program by the county, the operation of the program by the private nonprofit agency, payments made to the private nonprofit agency by the county, actual costs incurred by the nonprofit agency for the operation of the program, and the impact of the program on state and county AFDC-FC program costs. The county shall send a copy of each annual evaluation report to the director, and the director shall make these reports available to the Legislature upon request.

(4) Permit amendments, modifications, and extensions of the agreement to be made, with the mutual consent of both parties and with approval of the department, based on the evaluations described in paragraph (3), and on the experience and information acquired from the implementation and the ongoing operation of the program.

(5) Be consistent with the county's system improvement plan developed pursuant to the California Child Welfare Outcomes and Accountability System.

(d) (1) Upon a county's request, the director may waive child welfare regulations regarding the role of counties in conjunction with private nonprofit agencies operating residentially based services programs to enhance the development and implementation of case plans and the delivery of services in order to enable a county and a private nonprofit agency to implement an agreement described in subdivision (b). Nothing in this section shall be construed to supersede the requirements set forth in subdivision (c) of Section 16501.

(2) Notwithstanding Sections 11460 and 11462, or any other law or regulation governing payments under the AFDC-FC program, upon the request of one or more counties, and in accordance with the voluntary agreements as described in

subdivision (b), the director may also approve the use of up to a total of five alternative funding models for determining the method and level of payments that will be made under the AFDC-FC program to private nonprofit agencies operating residentially based services programs in lieu of using the rate classification levels and schedule of standard rates provided for in Section 11462. These alternative funding models may include, but shall not be limited to, the use of cost reimbursement, case rates, per diem or monthly rates, or a combination thereof. An alternative funding model shall do all of the following:

(A) Support the values and goals for residentially based services, including active child and family involvement, permanence, collaborative decisionmaking, and outcome measurement.

(B) Ensure that quality care and effective services are delivered to appropriate children or youth at a reasonable cost to the public.

(C) Ensure that payment levels are sufficient to permit the private nonprofit agencies operating residentially based services programs to provide care and supervision, social work activities, parallel pre-discharge community-based interventions for families, and followup post-discharge support and services for children and their families, including the cost of hiring and retaining qualified staff.

(D) Facilitate compliance with state requirements and the attainment of federal and state performance objectives.

(E) Control overall program costs by providing incentives for the private nonprofit agencies to use the most cost-effective approaches for achieving positive outcomes for the children or youth and their families.

(F) Facilitate the ability of the private nonprofit agencies to access other available public sources of funding and services to meet the needs of the children or youth placed in their residentially based services programs, and the needs of their families.

(G) Enable the combination of various funding streams necessary to meet the full range of services needed by foster children or youth in residentially based services programs, with particular reference to funding for mental health treatment services through the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment program.

(H) Maximize federal financial participation, and mitigate the loss of federal funds, while ensuring the effective delivery of

services to children or youth and families, and the achievement of positive outcomes.

(I) Provide for effective administrative oversight and enforcement mechanisms in order to ensure programmatic and fiscal accountability.

(3) A waiver granted by the director pursuant to paragraph (1), or an approval of an alternative funding model pursuant to paragraph (2), shall be applicable only to the development, implementation, and ongoing operation of a residentially based services program and related county activities provided under the terms of the agreement and for the duration of the agreement, and shall be granted only when all of the following apply:

(A) The agreement promises to offer a worthwhile test related to the development, implementation, and ongoing operation of a residentially based services program as described in this chapter.

(B) Existing regulatory provisions or the existing AFDC-FC payment requirements, or both, impose barriers for the effective, efficient, and timely implementation of the agreement.

(C) The requesting county proposes to monitor the agreement for compliance with the terms of the waiver or the alternative funding model, or both.

(D) Notwithstanding any change to payments made to group homes under Section 11462, the department may pay higher AFDC-FC payments for children and youth who are enrolled in a residentially based services program, to be offset by cost efficiencies achieved through shorter lengths of stay in foster care, or a reduction of reentries into foster care, as a result of providing predischarge support and postdischarge services to the children or youth and their families. Any upfront costs for this project shall be offset by other program savings identified by the department, to ensure that there are no net General Fund costs in each fiscal year.

(e) The department shall conduct a review of the county residentially based services program, no sooner than 18 months after the first child is enrolled in the program, to determine whether children are moving from residentially based services group residential care facilities into lower levels of care or exiting from foster care to permanent families in a timely manner, as described in the county's approved residentially based services plan. With 60 days advance notice to the county, the department may terminate

the county's participation in the residentially based services reform project if it determines, based on its review, that the county is not achieving timely movement from residentially based services group residential care facilities into lower levels of care or exits from foster care to permanent families with associated savings.

(f) In addition to the requirements set forth in subdivision (c), the voluntary agreements shall do all of the following:

(1) Provide that, to the extent that some of the care, services, and other activities associated with a residentially based services program operated under an agreement described in subdivision (b) are not eligible for federal financial participation as foster care maintenance payments under Part E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), but may be eligible for federal financial participation as administration or training, or may be eligible for federal financial participation under other programs, including, but not limited to, Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), the appropriate state departments shall take measures to obtain that federal funding.

(2) Provide that, prior to approving any waiver or alternative funding model pursuant to subdivision (d), the director shall make a determination that the design of the residentially based services program to be operated under the agreement described in subdivision (b) would ensure the health and safety of children or youth to be served.

(g) Agreements entered into pursuant to this section shall terminate on or before January 1, 2015, unless a later enacted statute extends or removes this limitation.

(h) The department shall report during the legislative budget hearings on the status of any county agreements entered into pursuant to subdivision (b), and on the development of statewide residentially based services programs.

Approved _____, 2010

Governor