

Introduced by Senator DuttonFebruary 25, 2009

An act to amend Sections 1536.1, 1538.5, 1566.25, and 1567.3 of the Health and Safety Code, and to amend Section 740 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as introduced, Dutton. Juvenile offenders: health facilities.

(1) Under existing law, before the placement of certain minors who are wards of the court due to a violation of law may be made in an out-of-county facility, the parole or probation officer in the county of residence is required to send written notice of the placement, including specified information, to the probation officer of the receiving county.

This bill would allow the notice to be made in writing, by fax, or electronic transmission. Additionally, the bill would require gang affiliation, as defined, to be included in the information sent to the receiving county. The bill would also require the community care facility in which the minor is being placed to obtain a copy of the notice from the probation officer and maintain it on file.

(2) Under existing law, if a ward of the court, as described above, who is placed in an out-of-county community care facility, has his or her board and care funded through the aid to families with dependent children foster care program, a plan for supervision and visitation is required to be developed by the county of residence.

This bill would require, in addition to the plan for supervision and visitation, that the sending county document information regarding any known gang affiliation or dangerous behavior that indicates the ward may pose a safety concern to the receiving county. It would also require

information related to gang affiliation to be included in a case plan required to be developed for the ward pursuant to existing law.

(3) Under existing law, a group home is required to annually report all incident reports involving a response by local law enforcement or emergency services personnel that were sent to a placement agency other than the county in which the group home is located.

This bill would expressly require a group home to immediately transmit a copy of all of these incident reports that concern runaway incidents.

(4) Under existing law, if a county of residence agrees to pay a placement county the actual costs of providing services to certain minors who are wards of the court due to a violation of law that are placed in a community care facility in the placement county, the county of residence shall agree to pay specified costs incurred by certain departments within the county of placement.

This bill would, additionally, require the county of residence to pay costs incurred by the sheriff and police department of the placement county.

(5) Existing law requires a placement agency, as defined, to notify the appropriate licensing agency of any known or suspected incidents, as specified, that would jeopardize the health and safety of residents at a community care facility.

This bill would add sexual abuse and a situation in which the residents are inadequately supervised to the list of reportable incidents.

(6) Because the bill would impose additional duties on the counties, it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1536.1 of the Health and Safety Code is
2 amended to read:

1 1536.1. (a) “Placement agency” means any county probation
2 department, county welfare department, county social service
3 department, county mental health department, county public
4 guardian, general acute care hospital discharge planner or
5 coordinator, conservator pursuant to Part 3 (commencing with
6 Section 1800) of Division 4 of the Probate Code, conservator
7 pursuant to Chapter 3 (commencing with Section 5350) of Part 1
8 of Division 5 of the Welfare and Institutions Code, and regional
9 center for persons with developmental disabilities, which is
10 engaged in finding homes or other places for placement of persons
11 of any age for temporary or permanent care.

12 (b) A placement agency shall place individuals only in licensed
13 community care facilities, facilities which are exempt from
14 licensing under Section 1505 or if the facility satisfies subdivision
15 (c) of Section 362 of the Welfare and Institutions Code, or with a
16 foster family agency.

17 (c) No employee of a placement agency shall place, refer, or
18 recommend placement of a person in a facility operating without
19 a license, unless the facility is exempt from licensing under Section
20 1505 or unless the facility satisfies subdivision (c) of Section 362
21 of the Welfare and Institutions Code. Violation of this subdivision
22 is a misdemeanor.

23 (d) Any employee of a placement agency who knows, or
24 reasonably suspects, that a facility which is not exempt from
25 licensing is operating without a license shall report the name and
26 address of the facility to the department. Failure to report as
27 required by this subdivision is a misdemeanor.

28 (e) The department shall investigate any report filed under
29 subdivision (d). If the department has probable cause to believe
30 that the facility which is the subject of the report is operating
31 without a license, the department shall investigate the facility
32 within 10 days after receipt of the report.

33 (f) A placement agency shall notify the appropriate licensing
34 agency of ~~any~~ known or suspected incidents ~~which~~ *that* would
35 jeopardize the health or safety of residents in a community care
36 facility. Reportable incidents include, but are not limited to, all of
37 the following:

- 38 (1) Incidents of physical *or sexual* abuse.
- 39 (2) ~~Any~~ A violation of personal rights.

1 (3) ~~Any~~A situation in which a facility is unclean, unsafe,
2 unsanitary, or in poor condition.

3 (4) ~~Any~~A situation in which a facility has insufficient personnel
4 or incompetent personnel on duty.

5 (5) ~~Any~~A situation in which residents experience mental or
6 verbal abuse.

7 (6) *A situation in which residents are inadequately supervised.*

8 SEC. 2. Section 1538.5 of the Health and Safety Code is
9 amended to read:

10 1538.5. (a) (1) Not less than 30 days prior to the anniversary
11 of the effective date of a residential community care facility license,
12 except licensed foster family homes, the department may transmit
13 a copy to the board members of the licensed facility, parents, legal
14 guardians, conservators, clients’ rights advocates, or placement
15 agencies, as designated in each resident’s placement agreement,
16 of all inspection reports given to the facility by the department
17 during the past year as a result of a substantiated complaint
18 regarding a violation of this chapter relating to resident abuse and
19 neglect, food, sanitation, incidental medical care, and residential
20 supervision. During that one-year period the copy of the notices
21 transmitted and the proof of the transmittal shall be open for public
22 inspection.

23 (2) The department may transmit copies of the inspection reports
24 referred to in paragraph (1) concerning group homes, as defined
25 by regulations of the department, to the county in which a group
26 home facility is located, if requested by that county.

27 (3) A group home facility shall maintain, at the facility, a copy
28 of all licensing reports for the past three years that would be
29 accessible to the public through the department, for inspection by
30 placement officials, current and prospective facility clients, and
31 these clients’ family members who visit the facility.

32 (b) The facility operator, at the expense of the facility, shall
33 transmit a copy of all substantiated complaints, by certified mail,
34 to those persons described pursuant to paragraph (1) of subdivision
35 (a) in the following cases:

36 (1) In the case of a substantiated complaint relating to resident
37 physical or sexual abuse, the facility shall have three days from
38 the date the facility receives the licensing report from the ~~state~~
39 department to comply.

1 (2) In ~~any~~ *the* case in which a facility has received three or more
2 substantiated complaints relating to the same violation during the
3 past 12 months, the facility shall have five days from the date the
4 facility receives the licensing report to comply.

5 (c) A residential facility shall retain a copy of the notices
6 transmitted pursuant to subdivision (b) and proof of their
7 transmittal by certified mail for a period of one year after their
8 transmittal.

9 (d) If a residential facility to which this section applies fails to
10 comply with this section, as determined by the department, the
11 department shall initiate civil penalty action against the facility in
12 accordance with this article and the related rules and regulations.

13 (e) Not less than 30 days prior to the anniversary of the effective
14 date of the license of any group home facility, as defined by
15 regulations of the department, at the request of the county in which
16 the group home facility is located, a group home facility shall
17 transmit to the county a copy of all incident reports prepared by
18 the group home facility and transmitted to a placement agency, as
19 described in subdivision (f) of Section 1536.1, in a county other
20 than the county in which the group home facility is located that
21 involved a response by local law enforcement or emergency
22 services personnel, *including runaway incidents*. The county shall
23 designate an official for the receipt of the incident reports and shall
24 notify the group home of the designation. Prior to transmitting
25 copies of incident reports to the county, the group home facility
26 shall redact the name of any child referenced in the incident reports,
27 and other identifying information regarding any child referenced
28 in the reports, ~~and the identity and location of the placement agency~~
29 ~~of any child referenced in the reports~~. The county may review the
30 incident reports to ensure that the group home facilities have taken
31 appropriate action to ensure the health and safety of the residents
32 of the facility.

33 (f) The department shall notify the residential community care
34 facility of its obligation when it is required to comply with this
35 section.

36 SEC. 3. Section 1566.25 of the Health and Safety Code is
37 amended to read:

38 1566.25. If a county of residence agrees to pay a placement
39 county the costs of providing services to a minor pursuant to

1 subdivision (a) of Section 740 of the Welfare and Institutions Code,
2 all of the following shall apply:

3 (a) The county of residence shall agree to pay the placement
4 county the actual costs of providing services to a child placed in
5 a community care facility outside his or her county of residence
6 by a placement agency, as defined in Section 1536.1, that are
7 incurred by the probation department, *sheriff's department, police*
8 *department*, social services department, health department, or
9 mental health department of the placement county for which the
10 placement county is not otherwise reimbursed.

11 (b) Claims made by the county of placement to the county of
12 residency pursuant to subdivision (a) shall include documentation
13 and shall be paid within 30 days of submission of these claims.

14 (c) For the purposes of this section, the county from where the
15 child was placed in the community care facility shall be considered
16 the county of residency.

17 SEC. 4. Section 1567.3 of the Health and Safety Code is
18 amended to read:

19 1567.3. (a) No licensed community care facility may receive
20 a ward of the juvenile court as described in Section 602 of the
21 Welfare and Institutions Code until the probation officer of the
22 county in which the community care facility is located has received
23 ~~written~~ notice, *in writing, by fax, or electronically transmitted*, of
24 the placement, as prescribed in Section 740 of the Welfare and
25 Institutions Code, including the name of the ward, the juvenile
26 record of the ward, including any known prior offenses *or gang*
27 *affiliation*, and the ward's county of residence, from the probation
28 officer of the county making the placement, or, in the case of a
29 Youth Authority ward, the parole officer in charge of the case. *The*
30 *licensed community care facility shall obtain a copy of the notice*
31 *from the probation officer of the county making the placement and*
32 *shall maintain a copy on file as evidence of compliance with this*
33 *section.*

34 (b) The probation officer of a county making an out-of-county
35 placement of a ward of the juvenile court as described in Section
36 602 of the Welfare and Institutions Code shall notify the probation
37 officer of the county in which the community care facility is located
38 ~~within at least 24 hours of~~ *prior to* receipt of the ward by the
39 licensed community care facility. If the ward is received on a

1 weekend or holiday, notification shall be made by the end of the
2 next business day.

3 SEC. 5. Section 740 of the Welfare and Institutions Code is
4 amended to read:

5 740. (a) Any minor adjudged to be a ward of the court on the
6 basis that he or she is a person described in Section 602 and who
7 is placed in a community care facility shall be placed in a
8 community care facility within his or her county of residence,
9 unless both of the following apply:

10 (1) He or she has identifiable needs requiring specialized care
11 that cannot be provided in a local facility; or his or her needs dictate
12 physical separation from his or her family.

13 (2) The county of residence agrees to pay the placement county
14 the costs of providing services to the minor, pursuant to Section
15 1566.25 of the Health and Safety Code.

16 (b) (1) Before the placement of a minor adjudged to be a ward
17 of the court on the basis that he or she is a person described in
18 Section 602 in any community care facility outside the ward's
19 county of residence, the probation officer of the county making
20 the placement, or in the case of a Youth Authority ward, the parole
21 officer in charge of his or her case, shall send, *via mail, delivery,*
22 *fax, or electronically,* written notice of the placement, including
23 the name of the ward, the juvenile record of the ward (including
24 any known prior offenses), and the ward's county of residence, to
25 the probation officer of the county in which the community care
26 facility is located. It is the intention of the Legislature, in regard
27 to this requirement, that the probation officer of the county making
28 the placement, or in the case of a Youth Authority ward, the parole
29 officer in charge of his or her case, shall make his or her best efforts
30 to send, *via mail, fax, or electronically,* or to hand deliver, the
31 notice ~~at the same time~~ *least 24 hours prior to the time* the
32 placement is made. When that placement is terminated, the
33 probation officer of the county making the placement, or in the
34 case of a Youth Authority ward, the parole officer in charge of his
35 or her case, shall send notice thereof to any person or agency
36 receiving notification of the placement.

37 (2) When it has been determined that it is necessary for a ward
38 whose board and care is funded through the Aid to Families with
39 Dependent Children-Foster Care program to be placed in a county
40 other than the ward's parents' or guardians' county of residence,

1 the specific reason the out-of-county placement is necessary shall
2 be documented in the ward's case plan. If the reason is lack of
3 resources in the sending county to meet the specific needs of the
4 ward, those specific resources needs shall be documented in the
5 case plan.

6 (3) When it has been determined that a ward whose board and
7 care is funded through the Aid to Families with Dependent
8 Children-Foster Care program is to be placed out-of-county and
9 that the sending county is to maintain responsibility for supervision
10 and visitation of the ward, the sending county shall develop a plan
11 of supervision and visitation activities to be performed, and shall
12 specify that the sending county is responsible for performing those
13 activities. *In addition to the plan of supervision and visitation, the*
14 *sending county shall document information regarding known or*
15 *suspected gang affiliation or dangerous behavior of the ward that*
16 *indicates the ward may pose a safety concern in the receiving*
17 *county.* The sending county shall send to the receiving county a
18 copy of the plan of supervision and visitation, in addition to the
19 notice of placement required in paragraph (1), prior to placement
20 of the ward. If placement occurs on a holiday or weekend, the plan
21 of supervision and visitation and the notice of placement shall be
22 provided to the receiving county on or before the end of the next
23 business day.

24 (4) When it has been determined that a ward whose placement
25 is funded through the Aid to Families with Dependent
26 Children-Foster Care program is to be placed out-of-county and
27 the sending county plans that the receiving county shall be
28 responsible for the supervision and visitation of the ward, the
29 sending county shall develop a formal agreement between the
30 sending and receiving counties. The formal agreement shall specify
31 the supervision and visitation to be provided the ward, and shall
32 specify that the receiving county is responsible for providing the
33 supervision and visitation. The formal agreement shall be approved
34 and signed by the sending and receiving counties prior to placement
35 of the ward in the receiving county. Additionally, the notice of
36 placement required by paragraph (1) shall be provided to the
37 receiving county prior to placement of the ward in that county.
38 Upon completion of the case plan, the sending county shall provide
39 a copy of the completed case plan to the receiving county. *The*
40 *case plan shall include information regarding known or suspected*

1 *gang affiliation or dangerous behavior of the ward that indicates*
2 *the ward may pose a safety concern for the receiving county.*

3 (5) The probation department of a receiving county that has a
4 group home in which a minor is placed by the probation department
5 of another county, after adjudication of the minor for any felony
6 offense, ~~may~~ shall disclose to the sheriff of the receiving county
7 or to the municipal police department of the city in which the group
8 home is located, the name of the minor, the felony offense or
9 offenses for which the minor has been adjudicated, and the address
10 of the group home. This information shall be utilized only for law
11 enforcement purposes and may not be utilized in ~~any~~ a manner
12 that is inconsistent with the rehabilitative program in which the
13 minor has been placed or with the progress the minor may be
14 making in the placement program. Notwithstanding any other
15 provision of law, the information provided by the probation
16 department to a law enforcement agency under this paragraph may
17 be provided to other law enforcement personnel for the limited
18 law enforcement purposes described in this paragraph, but shall
19 otherwise remain confidential.

20 (c) *Notwithstanding subdivision (e) of Section 1538.5 of the*
21 *Health and Safety Code, the group home facility shall immediately*
22 *transmit a copy of all incident reports concerning a ward placed*
23 *by the sending county that involved a response by local law*
24 *enforcement or emergency services personnel, including runaway*
25 *incidents, to the probation officer of the receiving county. The*
26 *report shall include identifying information about the ward.*

27 (e)

28 (d) A minor, the parent or guardian of any minor, and counsel
29 representing a minor or the parent or guardian of a minor may
30 petition the juvenile court for the review of ~~any~~ a placement
31 decision concerning the minor made by the probation officer
32 pursuant to subdivision (a). The petition shall state the petitioner's
33 relationship to the minor and shall set forth in concise language
34 the grounds on which the review is sought. The court shall order
35 that a hearing shall be held on the petition and shall give prior
36 notice, or cause prior notice to be given, to the persons and by the
37 means ~~as~~ prescribed by Section 776, and, in instances in which
38 the means of giving notice is not prescribed by that section, then
39 by any means as the court prescribes.

40 (d)

1 (e) If a minor is placed in a community care facility out of his
2 or her county of residence and is then arrested and placed in
3 juvenile hall pending a jurisdictional hearing, the county of
4 residence shall pay to the probation department of the county of
5 placement all reasonable costs resulting directly from the minor's
6 stay in the juvenile hall, provided that these costs exceed one
7 hundred dollars (\$100).

8 ~~(e)~~

9 (f) If, as a result of the hearing in subdivision (d), the minor is
10 remanded back to his or her county of residence, the county of
11 residence shall pay to the probation department of the county of
12 placement, in addition to any payment made pursuant to
13 subdivision~~(d)~~ (e), all reasonable costs resulting directly from
14 transporting the minor to the county of residency, provided that
15 these costs exceed one hundred dollars (\$100).

16 ~~(f)~~

17 (g) Claims made by the probation department in the county of
18 placement to the county of residence, pursuant to subdivisions~~(d)~~
19 ~~and~~ (e) and (f), shall be paid within 30 days of the submission of
20 these claims and the probation department in the county of
21 placement shall bear the remaining expense.

22 ~~(g)~~

23 (h) As used in this section:

24 (1) "Community care facility" shall be defined as provided in
25 Section 1502 of the Health and Safety Code.

26 (2) "*Gang affiliation*" shall have the same meaning as defined
27 for data entry into the CalGang system.

28 ~~(2)~~

29 (3) "Group home" has the same meaning as provided in
30 paragraph (1) of subdivision (g) of Section 80001 of Title 22 of
31 the California Code of Regulations.

32 SEC. 6. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.