

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 181

Introduced by Assembly ~~Member~~ Members *Beall and Portantino*
(Principal coauthor: Senator Steinberg)

(Coauthors: Assembly Members *Ammiano, Blumenfield, Brownley, Carter, Chesbro, Dickinson, Fong, Galgiani, Gordon, Huffman, Ma, Skinner, and Swanson*)

*(Coauthors: Senators *Correa, Evans, Price, and Vargas*)*

January 24, 2011

An act to amend Section 16164 of, and to add Section 16001.10 to, the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as amended, ~~Portantino~~ *Beall*. Foster youth: mental health bill of rights.

Existing law provides that, when a child is removed from his or her family by the juvenile court, placement of the child in foster care should secure, as nearly as possible, the custody, care, and discipline equivalent to that which should have been given the child by his or her parents. Existing law provides enumerated rights for children who are placed in foster care. Existing law establishes the Office of the State Foster Care Ombudsperson to disseminate specified information, including the stated rights of foster youth, and to investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services.

This bill would enumerate rights for foster youth relating to mental health services. The bill would require the office, in consultation with various entities, to develop, no later than July 1, 2012, standardized

information explaining the rights specified and to distribute this information to foster youth.

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

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

- 1 SECTION 1. Section 16001.10 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 16001.10. (a) It is the policy of the state that all children in
- 4 foster care *and transition-age foster youth* shall have the following
- 5 rights relating to mental health services:
- 6 (1) To receive needed mental health services.
- 7 (2) To interview a therapist prior to commencing treatment.
- 8 (3) To discontinue psychotropic medication, as deemed
- 9 appropriate by a physician, if the youth experiences potentially
- 10 dangerous side effects.
- 11 (4) To be presented with mental health options, including, but
- 12 not limited to, holistic or natural approaches, mentoring, peer
- 13 counseling, therapy, and medication.
- 14 (5) To continue services with their therapist or counselor *for at*
- 15 *least one year* when their residential placement changes ~~for at least~~
- 16 ~~one year~~, or as long as it is in the best interest of the youth, as
- 17 determined by a court.
- 18 (6) To be evaluated by a medical professional.
- 19 (7) To have mental health services provided outside of the place
- 20 of residence, *if the child wishes*.
- 21 (8) To be provided with information on how to seek mental
- 22 health services in their county of residence, *or to have this*
- 23 *information provided to the child's caregiver, depending on the*
- 24 *age of the child*.
- 25 (9) To gain access to personal mental health records.
- 26 (10) Consistent with other state laws, to be guaranteed the
- 27 protection of confidentiality when interacting with mental health
- 28 professionals, unless the youth is deemed at risk of harming himself
- 29 or herself or others, *and when reporting suspected child abuse to*
- 30 *the child protection agency*.
- 31 (11) To be given age-appropriate information on drug
- 32 interactions if prescribed more than one ~~psychotropic~~ medication.

1 (12) To receive timely mental health services in the county of
2 residence and not to be denied services ~~because of the~~ *based on*
3 *the child's* county of origin.

4 (13) To refuse mental health treatment at any time unless
5 deemed medically necessary by the court.

6 (b) The Office of the State Foster Care Ombudsperson, in
7 consultation with the State Department of Mental Health, the
8 ~~Department of Public Health~~ *State Department of Social Services*,
9 the State Department of Health Care Services, foster youth
10 advocacy and support groups, *representatives of county child*
11 *welfare agencies*, and groups representing children, families, foster
12 parents, and children's facilities, and other interested parties, shall
13 develop, no later than July 1, 2012, standardized information
14 explaining the rights specified in this section. The information
15 shall be presented in an age-appropriate manner and shall reflect
16 any relevant licensing requirements and medical information laws.

17 SEC. 2. Section 16164 of the Welfare and Institutions Code is
18 amended to read:

19 16164. (a) The Office of the State Foster Care Ombudsperson
20 shall do all of the following:

21 (1) Disseminate information on the rights of children and youth
22 in foster care and the services provided by the office. The rights
23 of children and youths in foster care are listed in Sections 16001.9
24 and 16001.10. The information shall include notification that
25 conversations with the office may not be confidential.

26 (2) Investigate and attempt to resolve complaints made by or
27 on behalf of children placed in foster care, related to their care,
28 placement, or services.

29 (3) Decide, in its discretion, whether to investigate a complaint,
30 or refer complaints to another agency for investigation.

31 (4) Upon rendering a decision to investigate a complaint from
32 a complainant, notify the complainant of the intention to
33 investigate. If the office declines to investigate a complaint or
34 continue an investigation, the office shall notify the complainant
35 of the reason for the action of the office.

36 (5) Update the complainant on the progress of the investigation
37 and notify the complainant of the final outcome.

38 (6) Document the number, source, origin, location, and nature
39 of complaints.

1 (7) (A) Compile and make available to the Legislature all data
2 collected over the course of the year including, but not limited to,
3 the number of contacts to the toll-free telephone number, the
4 number of complaints made, including the type and source of those
5 complaints, the number of investigations performed by the office,
6 the trends and issues that arose in the course of investigating
7 complaints, the number of referrals made, and the number of
8 pending complaints.

9 (B) Present this compiled data, on an annual basis, at appropriate
10 child welfare conferences, forums, and other events, as determined
11 by the department, that may include presentations to, but are not
12 limited to, representatives of the Legislature, the County Welfare
13 Directors Association, child welfare organizations, children’s
14 advocacy groups, consumer and service provider organizations,
15 and other interested parties.

16 (C) It is the intent of the Legislature that representatives of the
17 organizations described in subparagraph (B) consider this data in
18 the development of any recommendations offered toward
19 improving the child welfare system.

20 (D) The compiled data shall be posted so that it is available to
21 the public on the existing Internet Web site of the State Foster Care
22 Ombudsperson.

23 (8) Have access to any record of a state or local agency that is
24 necessary to carry out his or her responsibilities. Representatives
25 of the office may meet or communicate with any foster child in
26 his or her placement or elsewhere.

27 (b) The office may establish, in consultation with a committee
28 of interested individuals, regional or local foster care ombudsperson
29 offices for the purposes of expediting investigations and resolving
30 complaints, subject to appropriations in the annual Budget Act.

31 (c) (1) The office, in consultation with the California Welfare
32 Directors Association, Chief Probation Officers of California,
33 foster youth advocate and support groups, groups representing
34 children, families, foster parents, children’s facilities, and other
35 interested parties, shall develop, no later than July 1, 2002,
36 standardized information explaining the rights specified in Section
37 16001.9. The information shall be developed in an age-appropriate
38 manner, and shall reflect any relevant licensing requirements with
39 respect to foster care providers’ responsibilities to adequately
40 supervise children in care.

1 (2) The office, counties, foster care providers, and others may
2 use the information developed in paragraph (1) in carrying out
3 their responsibilities to inform foster children and youth of their
4 rights pursuant to Section 1530.91 of the Health and Safety Code,
5 Sections 27 and 16501.1, and this section.

O