

AMENDED IN SENATE JULY 1, 2014
AMENDED IN ASSEMBLY MAY 23, 2014
AMENDED IN ASSEMBLY APRIL 21, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2035

Introduced by Assembly Member Chesbro
(Coauthor: Assembly Member Hall)
(Coauthor: Senator Anderson)

February 20, 2014

An act to amend Sections 1522.41 and 1529.2 of the Health and Safety Code, and to amend ~~Sections 300~~ and *Section 16003* of, *and to amend, repeal, and add Section 300 to*, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2035, as amended, Chesbro. Sexually exploited and trafficked minors.

Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in certain cases, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill, in addition, would specifically provide, *until January 1, 2017*, that a minor may come within the jurisdiction of the juvenile court and become a dependent child of the court if the minor is a victim of human trafficking or sexual exploitation, or received food or shelter

in exchange for, or was paid to perform, sexual acts, and the parent or guardian failed or was unable to protect the child.

Existing law, the California Community Care Facilities Act, requires the State Department of Social Services to license and regulate community care facilities, including foster family agencies and other facilities that provide foster care services for children. Existing law requires the department to develop, and an administrator of a group home facility to complete, a certification program that includes training in various areas. Existing law requires a foster family agency to provide, and a licensed foster parent to complete, prescribed preplacement training and additional annual training. Existing law requires a community college district with a foster care education program to make orientation and training available to a relative or nonrelative extended family member caregiver of a foster child, as specified.

This bill would require the training for an administrator of a group home facility, licensed foster parent, or relative or nonrelative extended family member caregiver to include instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to a sexually exploited and trafficked minor in out-of-home care. By expanding the duties of community college districts, this bill would impose 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 1522.41 of the Health and Safety Code
- 2 is amended to read:
- 3 1522.41. (a) The director, in consultation and collaboration
- 4 with county placement officials, group home provider
- 5 organizations, the Director of Health Care Services, and the
- 6 Director of Developmental Services, shall develop and establish
- 7 a certification program to ensure that administrators of group home

1 facilities have appropriate training to provide the care and services
2 for which a license or certificate is issued.

3 (b) (1) In addition to any other requirements or qualifications
4 required by the department, an administrator of a group home
5 facility shall successfully complete a department-approved
6 certification program, pursuant to subdivision (c), prior to
7 employment. An administrator employed in a group home on the
8 effective date of this section shall meet the requirements of
9 paragraph (2) of subdivision (c).

10 (2) In those cases where the individual is both the licensee and
11 the administrator of a facility, the individual shall comply with all
12 of the licensee and administrator requirements of this section.

13 (3) Failure to comply with this section shall constitute cause for
14 revocation of the license of the facility.

15 (4) The licensee shall notify the department within 10 days of
16 any change in administrators.

17 (c) (1) The administrator certification programs shall require
18 a minimum of 40 hours of classroom instruction that provides
19 training on a uniform core of knowledge in each of the following
20 areas:

21 (A) Laws, regulations, and policies and procedural standards
22 that impact the operations of the type of facility for which the
23 applicant will be an administrator.

24 (B) Business operations.

25 (C) Management and supervision of staff.

26 (D) Psychosocial and educational needs of the facility residents.

27 (E) Community and support services.

28 (F) Physical needs for facility residents.

29 (G) Administration, storage, misuse, and interaction of
30 medication used by facility residents.

31 (H) Resident admission, retention, and assessment procedures,
32 including the right of a foster child to have fair and equal access
33 to all available services, placement, care, treatment, and benefits,
34 and to not be subjected to discrimination or harassment on the
35 basis of actual or perceived race, ethnic group identification,
36 ancestry, national origin, color, religion, sex, sexual orientation,
37 gender identity, mental or physical disability, or HIV status.

38 (I) Instruction on cultural competency and sensitivity relating
39 to, and best practices for, providing adequate care to lesbian, gay,
40 bisexual, and transgender youth in out-of-home care.

1 (J) Instruction on cultural competency and sensitivity relating
2 to, and best practices for, providing adequate care to a sexually
3 exploited and trafficked minor in out-of-home care.

4 (K) Nonviolent emergency intervention and reporting
5 requirements.

6 (L) Basic instruction on the existing laws and procedures
7 regarding the safety of foster youth at school and the ensuring of
8 a harassment- and violence-free school environment contained in
9 the School Safety and Violence Prevention Act (Article 3.6
10 commencing with Section 32228) of Chapter 2 of Part 19 of
11 Division 1 of Title 1 of the Education Code).

12 (2) The department shall adopt separate program requirements
13 for initial certification for persons who are employed as group
14 home administrators on the effective date of this section. A person
15 employed as an administrator of a group home facility on the
16 effective date of this section shall obtain a certificate by completing
17 the training and testing requirements imposed by the department
18 within 12 months of the effective date of the regulations
19 implementing this section. After the effective date of this section,
20 these administrators shall meet the requirements imposed by the
21 department on all other group home administrators for certificate
22 renewal.

23 (3) Individuals applying for certification under this section shall
24 successfully complete an approved certification program, pass a
25 written test administered by the department within 60 days of
26 completing the program, and submit to the department the
27 documentation required by subdivision (d) within 30 days after
28 being notified of having passed the test. The department may
29 extend these time deadlines for good cause. The department shall
30 notify the applicant of his or her test results within 30 days of
31 administering the test.

32 (d) The department shall not begin the process of issuing a
33 certificate until receipt of all of the following:

34 (1) A certificate of completion of the administrator training
35 required pursuant to this chapter.

36 (2) The fee required for issuance of the certificate. A fee of one
37 hundred dollars (\$100) shall be charged by the department to cover
38 the costs of processing the application for certification.

39 (3) Documentation from the applicant that he or she has passed
40 the written test.

1 (4) Submission of fingerprints pursuant to Section 1522. The
2 department may waive the submission for those persons who have
3 a current clearance on file.

4 (5) That person is at least 21 years of age.

5 (e) It shall be unlawful for any person not certified under this
6 section to hold himself or herself out as a certified administrator
7 of a group home facility. Any person willfully making any false
8 representation as being a certified administrator or facility manager
9 is guilty of a misdemeanor.

10 (f) (1) Certificates issued under this section shall be renewed
11 every two years and renewal shall be conditional upon the
12 certificate holder submitting documentation of completion of 40
13 hours of continuing education related to the core of knowledge
14 specified in subdivision (c). No more than one-half of the required
15 40 hours of continuing education necessary to renew the certificate
16 may be satisfied through online courses. All other continuing
17 education hours shall be completed in a classroom setting. For
18 purposes of this section, an individual who is a group home facility
19 administrator and who is required to complete the continuing
20 education hours required by the regulations of the State Department
21 of Developmental Services, and approved by the regional center,
22 may have up to 24 of the required continuing education course
23 hours credited toward the 40-hour continuing education
24 requirement of this section. Community college course hours
25 approved by the regional centers shall be accepted by the
26 department for certification.

27 (2) Every administrator of a group home facility shall complete
28 the continuing education requirements of this subdivision.

29 (3) Certificates issued under this section shall expire every two
30 years on the anniversary date of the initial issuance of the
31 certificate, except that any administrator receiving his or her initial
32 certification on or after July 1, 1999, shall make an irrevocable
33 election to have his or her recertification date for any subsequent
34 recertification either on the date two years from the date of issuance
35 of the certificate or on the individual's birthday during the second
36 calendar year following certification. The department shall send
37 a renewal notice to the certificate holder 90 days prior to the
38 expiration date of the certificate. If the certificate is not renewed
39 prior to its expiration date, reinstatement shall only be permitted
40 after the certificate holder has paid a delinquency fee equal to three

1 times the renewal fee and has provided evidence of completion of
2 the continuing education required.

3 (4) To renew a certificate, the certificate holder shall, on or
4 before the certificate expiration date, request renewal by submitting
5 to the department documentation of completion of the required
6 continuing education courses and pay the renewal fee of one
7 hundred dollars (\$100), irrespective of receipt of the department's
8 notification of the renewal. A renewal request postmarked on or
9 before the expiration of the certificate shall be proof of compliance
10 with this paragraph.

11 (5) A suspended or revoked certificate shall be subject to
12 expiration as provided for in this section. If reinstatement of the
13 certificate is approved by the department, the certificate holder,
14 as a condition precedent to reinstatement, shall submit proof of
15 compliance with paragraphs (1) and (2), and shall pay a fee in an
16 amount equal to the renewal fee, plus the delinquency fee, if any,
17 accrued at the time of its revocation or suspension. Delinquency
18 fees, if any, accrued subsequent to the time of its revocation or
19 suspension and prior to an order for reinstatement, shall be waived
20 for a period of 12 months to allow the individual sufficient time
21 to complete the required continuing education units and to submit
22 the required documentation. Individuals whose certificates will
23 expire within 90 days after the order for reinstatement may be
24 granted a three-month extension to renew their certificates during
25 which time the delinquency fees shall not accrue.

26 (6) A certificate that is not renewed within four years after its
27 expiration shall not be renewed, restored, reissued, or reinstated
28 except upon completion of a certification training program, passing
29 any test that may be required of an applicant for a new certificate
30 at that time, and paying the appropriate fees provided for in this
31 section.

32 (7) A fee of twenty-five dollars (\$25) shall be charged for the
33 reissuance of a lost certificate.

34 (8) A certificate holder shall inform the department of his or
35 her employment status and change of mailing address within 30
36 days of any change.

37 (g) Unless otherwise ordered by the department, the certificate
38 shall be considered forfeited under either of the following
39 conditions:

1 (1) The department has revoked any license held by the
2 administrator after the department issued the certificate.

3 (2) The department has issued an exclusion order against the
4 administrator pursuant to Section 1558, 1568.092, 1569.58, or
5 1596.8897, after the department issued the certificate, and the
6 administrator did not appeal the exclusion order or, after the appeal,
7 the department issued a decision and order that upheld the
8 exclusion order.

9 (h) (1) The department, in consultation and collaboration with
10 county placement officials, provider organizations, the State
11 Department of Health Care Services, and the State Department of
12 Developmental Services, shall establish, by regulation, the program
13 content, the testing instrument, the process for approving
14 certification training programs, and criteria to be used in
15 authorizing individuals, organizations, or educational institutions
16 to conduct certification training programs and continuing education
17 courses. The department may also grant continuing education hours
18 for continuing courses offered by accredited educational institutions
19 that are consistent with the requirements in this section. The
20 department may deny vendor approval to any agency or person in
21 any of the following circumstances:

22 (A) The applicant has not provided the department with evidence
23 satisfactory to the department of the ability of the applicant to
24 satisfy the requirements of vendorization set out in the regulations
25 adopted by the department pursuant to subdivision (j).

26 (B) The applicant person or agency has a conflict of interest in
27 that the person or agency places its clients in group home facilities.

28 (C) The applicant public or private agency has a conflict of
29 interest in that the agency is mandated to place clients in group
30 homes and to pay directly for the services. The department may
31 deny vendorization to this type of agency only as long as there are
32 other vendor programs available to conduct the certification
33 training programs and conduct education courses.

34 (2) The department may authorize vendors to conduct the
35 administrator's certification training program pursuant to this
36 section. The department shall conduct the written test pursuant to
37 regulations adopted by the department.

38 (3) The department shall prepare and maintain an updated list
39 of approved training vendors.

1 (4) The department may inspect certification training programs
2 and continuing education courses, including online courses, at no
3 charge to the department, to determine if content and teaching
4 methods comply with regulations. If the department determines
5 that any vendor is not complying with the requirements of this
6 section, the department shall take appropriate action to bring the
7 program into compliance, which may include removing the vendor
8 from the approved list.

9 (5) The department shall establish reasonable procedures and
10 timeframes not to exceed 30 days for the approval of vendor
11 training programs.

12 (6) The department may charge a reasonable fee, not to exceed
13 one hundred fifty dollars (\$150) every two years, to certification
14 program vendors for review and approval of the initial 40-hour
15 training program pursuant to subdivision (c). The department may
16 also charge the vendor a fee, not to exceed one hundred dollars
17 (\$100) every two years, for the review and approval of the
18 continuing education courses needed for recertification pursuant
19 to this subdivision.

20 (7) (A) A vendor of online programs for continuing education
21 shall ensure that each online course contains all of the following:

22 (i) An interactive portion in which the participant receives
23 feedback, through online communication, based on input from the
24 participant.

25 (ii) Required use of a personal identification number or personal
26 identification information to confirm the identity of the participant.

27 (iii) A final screen displaying a printable statement, to be signed
28 by the participant, certifying that the identified participant
29 completed the course. The vendor shall obtain a copy of the final
30 screen statement with the original signature of the participant prior
31 to the issuance of a certificate of completion. The signed statement
32 of completion shall be maintained by the vendor for a period of
33 three years and be available to the department upon demand. Any
34 person who certifies as true any material matter pursuant to this
35 clause that he or she knows to be false is guilty of a misdemeanor.

36 (B) Nothing in this subdivision shall prohibit the department
37 from approving online programs for continuing education that do
38 not meet the requirements of subparagraph (A) if the vendor
39 demonstrates to the department's satisfaction that, through

1 advanced technology, the course and the course delivery meet the
2 requirements of this section.

3 (i) The department shall establish a registry for holders of
4 certificates that shall include, at a minimum, information on
5 employment status and criminal record clearance.

6 (j) Subdivisions (b) to (i), inclusive, shall be implemented upon
7 regulations being adopted by the department, by January 1, 2000.

8 (k) Notwithstanding any provision of law to the contrary,
9 vendors approved by the department who exclusively provide
10 either initial or continuing education courses for certification of
11 administrators of a group home facility as defined by regulations
12 of the department, an adult residential facility as defined by
13 regulations of the department, or a residential care facility for the
14 elderly as defined in subdivision (k) of Section 1569.2, shall be
15 regulated solely by the department pursuant to this chapter. No
16 other state or local governmental entity shall be responsible for
17 regulating the activity of those vendors.

18 SEC. 2. Section 1529.2 of the Health and Safety Code is
19 amended to read:

20 1529.2. (a) In addition to the foster parent training provided
21 by community colleges, foster family agencies shall provide a
22 program of training for their certified foster families.

23 (b) (1) Every licensed foster parent shall complete a minimum
24 of 12 hours of foster parent training, as prescribed in paragraph
25 (3), before the placement of any foster children with the foster
26 parent. In addition, a foster parent shall complete a minimum of
27 eight hours of foster parent training annually, as prescribed in
28 paragraph (4). No child shall be placed in a foster family home
29 unless these requirements are met by the persons in the home who
30 are serving as the foster parents.

31 (2) (A) Upon the request of the foster parent for a hardship
32 waiver from the postplacement training requirement or a request
33 for an extension of the deadline, the county may, at its option, on
34 a case-by-case basis, waive the postplacement training requirement
35 or extend any established deadline for a period not to exceed one
36 year, if the postplacement training requirement presents a severe
37 and unavoidable obstacle to continuing as a foster parent. Obstacles
38 for which a county may grant a hardship waiver or extension are:

39 (i) Lack of access to training due to the cost or travel required.

40 (ii) Family emergency.

1 (B) Before a waiver or extension may be granted, the foster
2 parent should explore the opportunity of receiving training by
3 video or written materials.

4 (3) The initial preplacement training shall include, but not be
5 limited to, training courses that cover all of the following:

- 6 (A) An overview of the child protective system.
- 7 (B) The effects of child abuse and neglect on child development.
- 8 (C) Positive discipline and the importance of self-esteem.
- 9 (D) Health issues in foster care.
- 10 (E) Accessing education and health services available to foster
11 children.

12 (F) The right of a foster child to have fair and equal access to
13 all available services, placement, care, treatment, and benefits, and
14 to not be subjected to discrimination or harassment on the basis
15 of actual or perceived race, ethnic group identification, ancestry,
16 national origin, color, religion, sex, sexual orientation, gender
17 identity, mental or physical disability, or HIV status.

18 (G) Instruction on cultural competency and sensitivity relating
19 to, and best practices for, providing adequate care to lesbian, gay,
20 bisexual, and transgender youth in out-of-home care.

21 (H) Instruction on cultural competency and sensitivity relating
22 to, and best practices for, providing adequate care to a sexually
23 exploited and trafficked minor in out-of-home care.

24 (I) Basic instruction on the existing laws and procedures
25 regarding the safety of foster youth at school and the ensuring of
26 a harassment- and violence-free school environment contained in
27 the Student Safety and Violence Prevention Act (Article 3.6
28 commencing with Section 32228) of Chapter 2 of Part 19 of
29 Division 1 of Title 1 of the Education Code).

30 (4) The postplacement annual training shall include, but not be
31 limited to, training courses that cover all of the following:

- 32 (A) Age-appropriate child development.
- 33 (B) Health issues in foster care.
- 34 (C) Positive discipline and the importance of self-esteem.
- 35 (D) Emancipation and independent living skills if a foster parent
36 is caring for youth.

37 (E) The right of a foster child to have fair and equal access to
38 all available services, placement, care, treatment, and benefits, and
39 to not be subjected to discrimination or harassment on the basis
40 of actual or perceived race, ethnic group identification, ancestry,

1 national origin, color, religion, sex, sexual orientation, gender
2 identity, mental or physical disability, or HIV status.

3 (F) Instruction on cultural competency and sensitivity relating
4 to, and best practices for, providing adequate care to lesbian, gay,
5 bisexual, and transgender youth in out-of-home care.

6 (G) Instruction on cultural competency and sensitivity relating
7 to, and best practices for, providing adequate care to a sexually
8 exploited and trafficked minor in out-of-home care.

9 (5) Foster parent training may be attained through a variety of
10 sources, including community colleges, counties, hospitals, foster
11 parent associations, the California State Foster Parent Association's
12 Conference, adult schools, and certified foster parent instructors.

13 (6) A candidate for placement of foster children shall submit a
14 certificate of training to document completion of the training
15 requirements. The certificate shall be submitted with the initial
16 consideration for placements and provided at the time of the annual
17 visit by the licensing agency thereafter.

18 (c) Nothing in this section shall preclude a county from requiring
19 county-provided preplacement or postplacement foster parent
20 training in excess of the requirements in this section.

21 ~~SEC. 3. Section 300 of the Welfare and Institutions Code is~~
22 ~~amended to read:~~

23 ~~300. Any child who comes within any of the following~~
24 ~~descriptions is within the jurisdiction of the juvenile court which~~
25 ~~may adjudge that person to be a dependent child of the court:~~

26 ~~(a) The child has suffered, or there is a substantial risk that the~~
27 ~~child will suffer, serious physical harm inflicted nonaccidentally~~
28 ~~upon the child by the child's parent or guardian. For the purposes~~
29 ~~of this subdivision, a court may find there is a substantial risk of~~
30 ~~serious future injury based on the manner in which a less serious~~
31 ~~injury was inflicted, a history of repeated inflictions of injuries on~~
32 ~~the child or the child's siblings, or a combination of these and other~~
33 ~~actions by the parent or guardian which indicate the child is at risk~~
34 ~~of serious physical harm. For purposes of this subdivision, "serious~~
35 ~~physical harm" does not include reasonable and age-appropriate~~
36 ~~spanking to the buttocks where there is no evidence of serious~~
37 ~~physical injury.~~

38 ~~(b) The child has suffered, or there is a substantial risk that the~~
39 ~~child will suffer, serious physical harm or illness, as a result of the~~
40 ~~failure or inability of his or her parent or guardian to adequately~~

1 supervise or protect the child, or the willful or negligent failure of
2 the child's parent or guardian to adequately supervise or protect
3 the child from the conduct of the custodian with whom the child
4 has been left, or by the willful or negligent failure of the parent or
5 guardian to provide the child with adequate food, clothing, shelter,
6 or medical treatment, or by the inability of the parent or guardian
7 to provide regular care for the child due to the parent's or
8 guardian's mental illness, developmental disability, or substance
9 abuse. No child shall be found to be a person described by this
10 subdivision solely due to the lack of an emergency shelter for the
11 family. Whenever it is alleged that a child comes within the
12 jurisdiction of the court on the basis of the parent's or guardian's
13 willful failure to provide adequate medical treatment or specific
14 decision to provide spiritual treatment through prayer, the court
15 shall give deference to the parent's or guardian's medical treatment,
16 nontreatment, or spiritual treatment through prayer alone in
17 accordance with the tenets and practices of a recognized church
18 or religious denomination, by an accredited practitioner thereof,
19 and shall not assume jurisdiction unless necessary to protect the
20 child from suffering serious physical harm or illness. In making
21 its determination, the court shall consider (1) the nature of the
22 treatment proposed by the parent or guardian, (2) the risks to the
23 child posed by the course of treatment or nontreatment proposed
24 by the parent or guardian, (3) the risk, if any, of the course of
25 treatment being proposed by the petitioning agency, and (4) the
26 likely success of the courses of treatment or nontreatment proposed
27 by the parent or guardian and agency. The child shall continue to
28 be a dependent child pursuant to this subdivision only so long as
29 is necessary to protect the child from risk of suffering serious
30 physical harm or illness.

31 (e) ~~The child is suffering serious emotional damage, or is at~~
32 ~~substantial risk of suffering serious emotional damage, evidenced~~
33 ~~by severe anxiety, depression, withdrawal, or untoward aggressive~~
34 ~~behavior toward self or others, as a result of the conduct of the~~
35 ~~parent or guardian or who has no parent or guardian capable of~~
36 ~~providing appropriate care. No child shall be found to be a person~~
37 ~~described by this subdivision if the willful failure of the parent or~~
38 ~~guardian to provide adequate mental health treatment is based on~~
39 ~~a sincerely held religious belief and if a less intrusive judicial~~
40 ~~intervention is available.~~

1 ~~(d) The child has been sexually abused, or there is a substantial~~
2 ~~risk that the child will be sexually abused, as defined in Section~~
3 ~~11165.1 of the Penal Code, by his or her parent or guardian or a~~
4 ~~member of his or her household, or the parent or guardian has~~
5 ~~failed to adequately protect the child from sexual abuse when the~~
6 ~~parent or guardian knew or reasonably should have known that~~
7 ~~the child was in danger of sexual abuse.~~

8 ~~(e) The child is under five years of age and has suffered severe~~
9 ~~physical abuse by a parent, or by any person known by the parent,~~
10 ~~if the parent knew or reasonably should have known that the person~~
11 ~~was physically abusing the child. For the purposes of this~~
12 ~~subdivision, “severe physical abuse” means any of the following:~~
13 ~~any single act of abuse which causes physical trauma of sufficient~~
14 ~~severity that, if left untreated, would cause permanent physical~~
15 ~~disfigurement, permanent physical disability, or death; any single~~
16 ~~act of sexual abuse which causes significant bleeding, deep~~
17 ~~bruising, or significant external or internal swelling; or more than~~
18 ~~one act of physical abuse, each of which causes bleeding, deep~~
19 ~~bruising, significant external or internal swelling, bone fracture,~~
20 ~~or unconsciousness; or the willful, prolonged failure to provide~~
21 ~~adequate food. A child may not be removed from the physical~~
22 ~~custody of his or her parent or guardian on the basis of a finding~~
23 ~~of severe physical abuse unless the social worker has made an~~
24 ~~allegation of severe physical abuse pursuant to Section 332.~~

25 ~~(f) The child’s parent or guardian caused the death of another~~
26 ~~child through abuse or neglect.~~

27 ~~(g) The child has been left without any provision for support;~~
28 ~~physical custody of the child has been voluntarily surrendered~~
29 ~~pursuant to Section 1255.7 of the Health and Safety Code and the~~
30 ~~child has not been reclaimed within the 14-day period specified~~
31 ~~in subdivision (g) of that section; the child’s parent has been~~
32 ~~incarcerated or institutionalized and cannot arrange for the care of~~
33 ~~the child; or a relative or other adult custodian with whom the child~~
34 ~~resides or has been left is unwilling or unable to provide care or~~
35 ~~support for the child, the whereabouts of the parent are unknown,~~
36 ~~and reasonable efforts to locate the parent have been unsuccessful.~~

37 ~~(h) The child has been freed for adoption by one or both parents~~
38 ~~for 12 months by either relinquishment or termination of parental~~
39 ~~rights or an adoption petition has not been granted.~~

1 (i) ~~The child has been subjected to an act or acts of cruelty by~~
2 ~~the parent or guardian or a member of his or her household, or the~~
3 ~~parent or guardian has failed to adequately protect the child from~~
4 ~~an act or acts of cruelty when the parent or guardian knew or~~
5 ~~reasonably should have known that the child was in danger of~~
6 ~~being subjected to an act or acts of cruelty.~~

7 (j) ~~The child's sibling has been abused or neglected, as defined~~
8 ~~in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk~~
9 ~~that the child will be abused or neglected, as defined in those~~
10 ~~subdivisions. The court shall consider the circumstances~~
11 ~~surrounding the abuse or neglect of the sibling, the age and gender~~
12 ~~of each child, the nature of the abuse or neglect of the sibling, the~~
13 ~~mental condition of the parent or guardian, and any other factors~~
14 ~~the court considers probative in determining whether there is a~~
15 ~~substantial risk to the child.~~

16 (k) ~~The child is a victim of human trafficking, as described in~~
17 ~~Section 236.1 of the Penal Code, is a victim of sexual exploitation,~~
18 ~~as described in Section 11165.1 of the Penal Code, or receives~~
19 ~~food or shelter in exchange for, or is paid to perform, sexual acts~~
20 ~~described in Section 236.1 or 11165.1 of the Penal Code, and the~~
21 ~~parent or guardian failed or was unable to protect the child.~~

22 ~~It is the intent of the Legislature that nothing in this section~~
23 ~~disrupt the family unnecessarily or intrude inappropriately into~~
24 ~~family life, prohibit the use of reasonable methods of parental~~
25 ~~discipline, or prescribe a particular method of parenting. Further,~~
26 ~~nothing in this section is intended to limit the offering of voluntary~~
27 ~~services to those families in need of assistance but who do not~~
28 ~~come within the descriptions of this section. To the extent that~~
29 ~~savings accrue to the state from child welfare services funding~~
30 ~~obtained as a result of the enactment of the act that enacted this~~
31 ~~section, those savings shall be used to promote services which~~
32 ~~support family maintenance and family reunification plans, such~~
33 ~~as client transportation, out-of-home respite care, parenting~~
34 ~~training, and the provision of temporary or emergency in-home~~
35 ~~caretakers and persons teaching and demonstrating homemaking~~
36 ~~skills. The Legislature further declares that a physical disability,~~
37 ~~such as blindness or deafness, is no bar to the raising of happy and~~
38 ~~well-adjusted children and that a court's determination pursuant~~
39 ~~to this section shall center upon whether a parent's disability~~
40 ~~prevents him or her from exercising care and control. The~~

1 ~~Legislature further declares that a child whose parent has been~~
2 ~~adjudged a dependent child of the court pursuant to this section~~
3 ~~shall not be considered to be at risk of abuse or neglect solely~~
4 ~~because of the age, dependent status, or foster care status of the~~
5 ~~parent.~~

6 ~~As used in this section, “guardian” means the legal guardian of~~
7 ~~the child.~~

8 *SEC. 3. Section 300 of the Welfare and Institutions Code is*
9 *amended to read:*

10 300. Any child who comes within any of the following
11 descriptions is within the jurisdiction of the juvenile court which
12 may adjudge that person to be a dependent child of the court:

13 (a) The child has suffered, or there is a substantial risk that the
14 child will suffer, serious physical harm inflicted nonaccidentally
15 upon the child by the child’s parent or guardian. For the purposes
16 of this subdivision, a court may find there is a substantial risk of
17 serious future injury based on the manner in which a less serious
18 injury was inflicted, a history of repeated inflictions of injuries on
19 the child or the child’s siblings, or a combination of these and other
20 actions by the parent or guardian which indicate the child is at risk
21 of serious physical harm. For purposes of this subdivision, “serious
22 physical harm” does not include reasonable and age-appropriate
23 spanking to the buttocks where there is no evidence of serious
24 physical injury.

25 (b) (1) The child has suffered, or there is a substantial risk
26 that the child will suffer, serious physical harm or illness, as a
27 result of the failure or inability of his or her parent or guardian to
28 adequately supervise or protect the child, or the willful or negligent
29 failure of the child’s parent or guardian to adequately supervise
30 or protect the child from the conduct of the custodian with whom
31 the child has been left, or by the willful or negligent failure of the
32 parent or guardian to provide the child with adequate food,
33 clothing, shelter, or medical treatment, or by the inability of the
34 parent or guardian to provide regular care for the child due to the
35 parent’s or guardian’s mental illness, developmental disability, or
36 substance abuse. No child shall be found to be a person described
37 by this subdivision solely due to the lack of an emergency shelter
38 for the family. Whenever it is alleged that a child comes within
39 the jurisdiction of the court on the basis of the parent’s or
40 guardian’s willful failure to provide adequate medical treatment

1 or specific decision to provide spiritual treatment through prayer,
2 the court shall give deference to the parent's or guardian's medical
3 treatment, nontreatment, or spiritual treatment through prayer alone
4 in accordance with the tenets and practices of a recognized church
5 or religious denomination, by an accredited practitioner thereof,
6 and shall not assume jurisdiction unless necessary to protect the
7 child from suffering serious physical harm or illness. In making
8 its determination, the court shall consider (1) the nature of the
9 treatment proposed by the parent or guardian, (2) the risks to the
10 child posed by the course of treatment or nontreatment proposed
11 by the parent or guardian, (3) the risk, if any, of the course of
12 treatment being proposed by the petitioning agency, and (4) the
13 likely success of the courses of treatment or nontreatment proposed
14 by the parent or guardian and agency. The child shall continue to
15 be a dependent child pursuant to this subdivision only so long as
16 is necessary to protect the child from risk of suffering serious
17 physical harm or illness.

18 (2) The Legislature finds and declares that a child who is
19 sexually trafficked, as described in Section 236.1 of the Penal
20 Code, or who receives food or shelter in exchange for, or who is
21 paid to perform, sexual acts described in Section 236.1 or 11165.1
22 of the Penal Code, and whose parent or guardian failed to, or was
23 unable to, protect the child, is within the description of this
24 subdivision, and that this finding is declaratory of existing law.
25 These children shall be known as commercially sexually exploited
26 children.

27 (c) The child is suffering serious emotional damage, or is at
28 substantial risk of suffering serious emotional damage, evidenced
29 by severe anxiety, depression, withdrawal, or untoward aggressive
30 behavior toward self or others, as a result of the conduct of the
31 parent or guardian or who has no parent or guardian capable of
32 providing appropriate care. No child shall be found to be a person
33 described by this subdivision if the willful failure of the parent or
34 guardian to provide adequate mental health treatment is based on
35 a sincerely held religious belief and if a less intrusive judicial
36 intervention is available.

37 (d) The child has been sexually abused, or there is a substantial
38 risk that the child will be sexually abused, as defined in Section
39 11165.1 of the Penal Code, by his or her parent or guardian or a
40 member of his or her household, or the parent or guardian has

1 failed to adequately protect the child from sexual abuse when the
2 parent or guardian knew or reasonably should have known that
3 the child was in danger of sexual abuse.

4 (e) The child is under ~~the age of~~ five years *of age* and has
5 suffered severe physical abuse by a parent, or by any person known
6 by the parent, if the parent knew or reasonably should have known
7 that the person was physically abusing the child. For the purposes
8 of this subdivision, “severe physical abuse” means any of the
9 following: any single act of abuse which causes physical trauma
10 of sufficient severity that, if left untreated, would cause permanent
11 physical disfigurement, permanent physical disability, or death;
12 any single act of sexual abuse which causes significant bleeding,
13 deep bruising, or significant external or internal swelling; or more
14 than one act of physical abuse, each of which causes bleeding,
15 deep bruising, significant external or internal swelling, bone
16 fracture, or unconsciousness; or the willful, prolonged failure to
17 provide adequate food. A child may not be removed from the
18 physical custody of his or her parent or guardian on the basis of a
19 finding of severe physical abuse unless the social worker has made
20 an allegation of severe physical abuse pursuant to Section 332.

21 (f) The child’s parent or guardian caused the death of another
22 child through abuse or neglect.

23 (g) The child has been left without any provision for support;
24 physical custody of the child has been voluntarily surrendered
25 pursuant to Section 1255.7 of the Health and Safety Code and the
26 child has not been reclaimed within the 14-day period specified
27 in subdivision ~~(e)~~ (g) of that section; the child’s parent has been
28 incarcerated or institutionalized and cannot arrange for the care of
29 the child; or a relative or other adult custodian with whom the child
30 resides or has been left is unwilling or unable to provide care or
31 support for the child, the whereabouts of the parent are unknown,
32 and reasonable efforts to locate the parent have been unsuccessful.

33 (h) The child has been freed for adoption by one or both parents
34 for 12 months by either relinquishment or termination of parental
35 rights or an adoption petition has not been granted.

36 (i) The child has been subjected to an act or acts of cruelty by
37 the parent or guardian or a member of his or her household, or the
38 parent or guardian has failed to adequately protect the child from
39 an act or acts of cruelty when the parent or guardian knew or

1 reasonably should have known that the child was in danger of
2 being subjected to an act or acts of cruelty.

3 (j) The child's sibling has been abused or neglected, as defined
4 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
5 that the child will be abused or neglected, as defined in those
6 subdivisions. The court shall consider the circumstances
7 surrounding the abuse or neglect of the sibling, the age and gender
8 of each child, the nature of the abuse or neglect of the sibling, the
9 mental condition of the parent or guardian, and any other factors
10 the court considers probative in determining whether there is a
11 substantial risk to the child.

12 (k) *The child is a victim of human trafficking, as described in*
13 *Section 236.1 of the Penal Code, is a victim of sexual exploitation,*
14 *as described in Section 11165.1 of the Penal Code, or receives*
15 *food or shelter in exchange for, or is paid to perform, sexual acts*
16 *described in Section 236.1 or 11165.1 of the Penal Code, and the*
17 *parent or guardian failed or was unable to protect the child.*

18 It is the intent of the Legislature that nothing in this section
19 disrupt the family unnecessarily or intrude inappropriately into
20 family life, prohibit the use of reasonable methods of parental
21 discipline, or prescribe a particular method of parenting. Further,
22 nothing in this section is intended to limit the offering of voluntary
23 services to those families in need of assistance but who do not
24 come within the descriptions of this section. To the extent that
25 savings accrue to the state from child welfare services funding
26 obtained as a result of the enactment of the act that enacted this
27 section, those savings shall be used to promote services which
28 support family maintenance and family reunification plans, such
29 as client transportation, out-of-home respite care, parenting
30 training, and the provision of temporary or emergency in-home
31 caretakers and persons teaching and demonstrating homemaking
32 skills. The Legislature further declares that a physical disability,
33 such as blindness or deafness, is no bar to the raising of happy and
34 well-adjusted children and that a court's determination pursuant
35 to this section shall center upon whether a parent's disability
36 prevents him or her from exercising care and control. The
37 Legislature further declares that a child whose parent has been
38 adjudged a dependent child of the court pursuant to this section
39 shall not be considered to be at risk of abuse or neglect solely

1 because of the age, dependent status, or foster care status of the
2 parent.

3 As used in this section, “guardian” means the legal guardian of
4 the child.

5 *This section shall remain in effect only until January 1, 2017,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2017, deletes or extends that date.*

8 SEC. 4. Section 300 is added to the Welfare and Institutions
9 Code, to read:

10 300. Any child who comes within any of the following
11 descriptions is within the jurisdiction of the juvenile court which
12 may adjudge that person to be a dependent child of the court:

13 (a) The child has suffered, or there is a substantial risk that the
14 child will suffer, serious physical harm inflicted nonaccidentally
15 upon the child by the child’s parent or guardian. For the purposes
16 of this subdivision, a court may find there is a substantial risk of
17 serious future injury based on the manner in which a less serious
18 injury was inflicted, a history of repeated inflictions of injuries on
19 the child or the child’s siblings, or a combination of these and
20 other actions by the parent or guardian which indicate the child
21 is at risk of serious physical harm. For purposes of this subdivision,
22 “serious physical harm” does not include reasonable and
23 age-appropriate spanking to the buttocks where there is no
24 evidence of serious physical injury.

25 (b) (1) The child has suffered, or there is a substantial risk that
26 the child will suffer, serious physical harm or illness, as a result
27 of the failure or inability of his or her parent or guardian to
28 adequately supervise or protect the child, or the willful or negligent
29 failure of the child’s parent or guardian to adequately supervise
30 or protect the child from the conduct of the custodian with whom
31 the child has been left, or by the willful or negligent failure of the
32 parent or guardian to provide the child with adequate food,
33 clothing, shelter, or medical treatment, or by the inability of the
34 parent or guardian to provide regular care for the child due to the
35 parent’s or guardian’s mental illness, developmental disability,
36 or substance abuse. No child shall be found to be a person
37 described by this subdivision solely due to the lack of an emergency
38 shelter for the family. Whenever it is alleged that a child comes
39 within the jurisdiction of the court on the basis of the parent’s or
40 guardian’s willful failure to provide adequate medical treatment

1 or specific decision to provide spiritual treatment through prayer,
2 the court shall give deference to the parent's or guardian's medical
3 treatment, nontreatment, or spiritual treatment through prayer
4 alone in accordance with the tenets and practices of a recognized
5 church or religious denomination, by an accredited practitioner
6 thereof, and shall not assume jurisdiction unless necessary to
7 protect the child from suffering serious physical harm or illness.
8 In making its determination, the court shall consider (1) the nature
9 of the treatment proposed by the parent or guardian, (2) the risks
10 to the child posed by the course of treatment or nontreatment
11 proposed by the parent or guardian, (3) the risk, if any, of the
12 course of treatment being proposed by the petitioning agency, and
13 (4) the likely success of the courses of treatment or nontreatment
14 proposed by the parent or guardian and agency. The child shall
15 continue to be a dependent child pursuant to this subdivision only
16 so long as is necessary to protect the child from risk of suffering
17 serious physical harm or illness.

18 (2) The Legislature finds and declares that a child who is
19 sexually trafficked, as described in Section 236.1 of the Penal
20 Code, or who receives food or shelter in exchange for, or who is
21 paid to perform, sexual acts described in Section 236.1 or 11165.1
22 of the Penal Code, and whose parent or guardian failed to, or was
23 unable to, protect the child, is within the description of this
24 subdivision, and that this finding is declaratory of existing law.
25 These children shall be known as commercially sexually exploited
26 children.

27 (c) The child is suffering serious emotional damage, or is at
28 substantial risk of suffering serious emotional damage, evidenced
29 by severe anxiety, depression, withdrawal, or untoward aggressive
30 behavior toward self or others, as a result of the conduct of the
31 parent or guardian or who has no parent or guardian capable of
32 providing appropriate care. No child shall be found to be a person
33 described by this subdivision if the willful failure of the parent or
34 guardian to provide adequate mental health treatment is based on
35 a sincerely held religious belief and if a less intrusive judicial
36 intervention is available.

37 (d) The child has been sexually abused, or there is a substantial
38 risk that the child will be sexually abused, as defined in Section
39 11165.1 of the Penal Code, by his or her parent or guardian or a
40 member of his or her household, or the parent or guardian has

1 *failed to adequately protect the child from sexual abuse when the*
2 *parent or guardian knew or reasonably should have known that*
3 *the child was in danger of sexual abuse.*

4 *(e) The child is under five years of age and has suffered severe*
5 *physical abuse by a parent, or by any person known by the parent,*
6 *if the parent knew or reasonably should have known that the person*
7 *was physically abusing the child. For the purposes of this*
8 *subdivision, “severe physical abuse” means any of the following:*
9 *any single act of abuse which causes physical trauma of sufficient*
10 *severity that, if left untreated, would cause permanent physical*
11 *disfigurement, permanent physical disability, or death; any single*
12 *act of sexual abuse which causes significant bleeding, deep*
13 *bruising, or significant external or internal swelling; or more than*
14 *one act of physical abuse, each of which causes bleeding, deep*
15 *bruising, significant external or internal swelling, bone fracture,*
16 *or unconsciousness; or the willful, prolonged failure to provide*
17 *adequate food. A child may not be removed from the physical*
18 *custody of his or her parent or guardian on the basis of a finding*
19 *of severe physical abuse unless the social worker has made an*
20 *allegation of severe physical abuse pursuant to Section 332.*

21 *(f) The child’s parent or guardian caused the death of another*
22 *child through abuse or neglect.*

23 *(g) The child has been left without any provision for support;*
24 *physical custody of the child has been voluntarily surrendered*
25 *pursuant to Section 1255.7 of the Health and Safety Code and the*
26 *child has not been reclaimed within the 14-day period specified*
27 *in subdivision (e) of that section; the child’s parent has been*
28 *incarcerated or institutionalized and cannot arrange for the care*
29 *of the child; or a relative or other adult custodian with whom the*
30 *child resides or has been left is unwilling or unable to provide*
31 *care or support for the child, the whereabouts of the parent are*
32 *unknown, and reasonable efforts to locate the parent have been*
33 *unsuccessful.*

34 *(h) The child has been freed for adoption by one or both parents*
35 *for 12 months by either relinquishment or termination of parental*
36 *rights or an adoption petition has not been granted.*

37 *(i) The child has been subjected to an act or acts of cruelty by*
38 *the parent or guardian or a member of his or her household, or*
39 *the parent or guardian has failed to adequately protect the child*
40 *from an act or acts of cruelty when the parent or guardian knew*

1 *or reasonably should have known that the child was in danger of*
2 *being subjected to an act or acts of cruelty.*

3 *(j) The child's sibling has been abused or neglected, as defined*
4 *in subdivision (a), (b), (d), (e), or (i), and there is a substantial*
5 *risk that the child will be abused or neglected, as defined in those*
6 *subdivisions. The court shall consider the circumstances*
7 *surrounding the abuse or neglect of the sibling, the age and gender*
8 *of each child, the nature of the abuse or neglect of the sibling, the*
9 *mental condition of the parent or guardian, and any other factors*
10 *the court considers probative in determining whether there is a*
11 *substantial risk to the child.*

12 *It is the intent of the Legislature that nothing in this section*
13 *disrupt the family unnecessarily or intrude inappropriately into*
14 *family life, prohibit the use of reasonable methods of parental*
15 *discipline, or prescribe a particular method of parenting. Further,*
16 *nothing in this section is intended to limit the offering of voluntary*
17 *services to those families in need of assistance but who do not*
18 *come within the descriptions of this section. To the extent that*
19 *savings accrue to the state from child welfare services funding*
20 *obtained as a result of the enactment of the act that enacted this*
21 *section, those savings shall be used to promote services which*
22 *support family maintenance and family reunification plans, such*
23 *as client transportation, out-of-home respite care, parenting*
24 *training, and the provision of temporary or emergency in-home*
25 *caretakers and persons teaching and demonstrating homemaking*
26 *skills. The Legislature further declares that a physical disability,*
27 *such as blindness or deafness, is no bar to the raising of happy*
28 *and well-adjusted children and that a court's determination*
29 *pursuant to this section shall center upon whether a parent's*
30 *disability prevents him or her from exercising care and control.*
31 *The Legislature further declares that a child whose parent has*
32 *been adjudged a dependent child of the court pursuant to this*
33 *section shall not be considered to be at risk of abuse or neglect*
34 *solely because of the age, dependent status, or foster care status*
35 *of the parent.*

36 *As used in this section, "guardian" means the legal guardian*
37 *of the child.*

38 *This section shall become operative on January 1, 2017.*

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 16003 of the Welfare and Institutions Code is
3 amended to read:

4 16003. (a) In order to promote the successful implementation
5 of the statutory preference for foster care placement with a relative
6 caretaker as set forth in Section 7950 of the Family Code, each
7 community college district with a foster care education program
8 shall make available orientation and training to the relative or
9 nonrelative extended family member caregiver into whose care
10 the county has placed a foster child pursuant to Section 1529.2 of
11 the Health and Safety Code, including, but not limited to, courses
12 that cover the following:

13 (1) The role, rights, and responsibilities of a relative or
14 nonrelative extended family member caregiver caring for a child
15 in foster care, including the right of a foster child to have fair and
16 equal access to all available services, placement, care, treatment,
17 and benefits, and to not be subjected to discrimination or
18 harassment on the basis of actual or perceived race, ethnic group
19 identification, ancestry, national origin, color, religion, sex, sexual
20 orientation, gender identity, mental or physical disability, or HIV
21 status.

22 (2) An overview of the child protective system.

23 (3) The effects of child abuse and neglect on child development.

24 (4) Positive discipline and the importance of self-esteem.

25 (5) Health issues in foster care.

26 (6) Accessing education and health services that are available
27 to foster children.

28 (7) Relationship and safety issues regarding contact with one
29 or both of the birth parents.

30 (8) Permanency options for relative or nonrelative extended
31 family member caregivers, including legal guardianship, the
32 Kinship Guardianship Assistance Payment Program, and kin
33 adoption.

34 (9) Information on resources available for those who meet
35 eligibility criteria, including out-of-home care payments, the
36 Medi-Cal program, in-home supportive services, and other similar
37 resources.

38 (10) Instruction on cultural competency and sensitivity relating
39 to, and best practices for, providing adequate care to lesbian, gay,
40 bisexual, and transgender youth in out-of-home care.

- 1 (11) Instruction on cultural competency and sensitivity relating
- 2 to, and best practices for, providing adequate care to a sexually
- 3 exploited and trafficked minor in out-of-home care.
- 4 (12) Basic instruction on the existing laws and procedures
- 5 regarding the safety of foster youth at school and the ensuring of
- 6 a harassment- and violence-free school environment contained in
- 7 the Student Safety and Violence Prevention Act (Article 3.6
- 8 (commencing with Section 32228) of Chapter 2 of Part 19 of
- 9 Division 1 of Title 1 of the Education Code).
- 10 (b) In addition to training made available pursuant to subdivision
- 11 (a), each community college district with a foster care education
- 12 program shall make training available to a relative or nonrelative
- 13 extended family member caregiver that includes, but need not be
- 14 limited to, courses that cover all of the following:
- 15 (1) Age-appropriate child development.
- 16 (2) Health issues in foster care.
- 17 (3) Positive discipline and the importance of self-esteem.
- 18 (4) Emancipation and independent living.
- 19 (5) Accessing education and health services available to foster
- 20 children.
- 21 (6) Relationship and safety issues regarding contact with one
- 22 or both of the birth parents.
- 23 (7) Permanency options for relative or nonrelative extended
- 24 family member caregivers, including legal guardianship, the
- 25 Kinship Guardianship Assistance Payment Program, and kin
- 26 adoption.
- 27 (8) Basic instruction on the existing laws and procedures
- 28 regarding the safety of foster youth at school and the ensuring of
- 29 a harassment- and violence-free school environment contained in
- 30 the Student Safety and Violence Prevention Act (Article 3.6
- 31 (commencing with Section 32228) of Chapter 2 of Part 19 of
- 32 Division 1 of Title 1 of the Education Code).
- 33 (c) In addition to the requirements of subdivisions (a) and (b),
- 34 each community college district with a foster care education
- 35 program, in providing the orientation program, shall develop
- 36 appropriate program parameters in collaboration with the counties.
- 37 (d) Each community college district with a foster care education
- 38 program shall make every attempt to make the training and
- 39 orientation programs for relative or nonrelative extended family

1 member caregivers highly accessible in the communities in which
2 they reside.

3 (e) When a child is placed with a relative or nonrelative extended
4 family member caregiver, the county shall inform the caregiver
5 of the availability of training and orientation programs and it is
6 the intent of the Legislature that the county shall forward the names
7 and addresses of relative or nonrelative extended family member
8 caregivers to the appropriate community colleges providing the
9 training and orientation programs.

10 (f) This section shall not be construed to preclude counties from
11 developing or expanding existing training and orientation programs
12 for foster care providers to include relative or nonrelative extended
13 family member caregivers.

14 ~~SEC. 5.~~

15 *SEC. 6.* If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.