

**Introduced by Senator Leno
(Coauthor: Senator Beall)**

February 27, 2015

An act to add Section 1502.8 to the Health and Safety Code, and to amend Section 16001.9 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as introduced, Leno. Foster children: housing: gender identity.

Existing law provides for the licensure and regulation by the Community Care Licensing Division of the State Department of Social Services of various out-of-home facilities for children and nonminor dependents in foster care, including, among others, licensed foster family homes, certified family homes, and group homes. Existing regulations prohibit children of the opposite sex from sharing a bedroom in those placements unless each child is under five years of age.

This bill would require foster children and nonminor dependents in out-of-home-care to be placed according to their gender identity, regardless of the gender or sex listed in their court or child welfare records. The bill would require the division to promulgate regulations implementing these provisions. By expanding the duties of counties relating to the placement of foster children and nonminor dependents, this bill would impose a state-mandated local program.

Existing law provides that it is the policy of the state that all minors and nonminors in foster care have specified rights, including, among others, the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race,

ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

This bill would additionally specify that all minors and nonminors in foster care have the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records.

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 1502.8 is added to the Health and Safety
- 2 Code, to read:
- 3 1502.8. (a) Foster children and nonminor dependents in
- 4 out-of-home care shall be placed according to their gender identity,
- 5 regardless of the gender or sex listed in their court or child welfare
- 6 records.
- 7 (b) The department’s Community Care Licensing Division shall
- 8 promulgate regulations implementing this section.
- 9 SEC. 2. Section 16001.9 of the Welfare and Institutions Code
- 10 is amended to read:
- 11 16001.9. (a) It is the policy of the state that all minors and
- 12 nonminors in foster care shall have the following rights:
- 13 (1) To live in a safe, healthy, and comfortable home where he
- 14 or she is treated with respect.
- 15 (2) To be free from physical, sexual, emotional, or other abuse,
- 16 or corporal punishment.
- 17 (3) To receive adequate and healthy food, adequate clothing,
- 18 and, for youth in group homes, an allowance.
- 19 (4) To receive medical, dental, vision, and mental health
- 20 services.

- 1 (5) To be free of the administration of medication or chemical
2 substances, unless authorized by a physician.
- 3 (6) To contact family members, unless prohibited by court order,
4 and social workers, attorneys, foster youth advocates and
5 supporters, Court Appointed Special Advocates (CASAs), and
6 probation officers.
- 7 (7) To visit and contact brothers and sisters, unless prohibited
8 by court order.
- 9 (8) To contact the Community Care Licensing Division of the
10 State Department of Social Services or the State Foster Care
11 Ombudsperson regarding violations of rights, to speak to
12 representatives of these offices confidentially, and to be free from
13 threats or punishment for making complaints.
- 14 (9) To make and receive confidential telephone calls and send
15 and receive unopened mail, unless prohibited by court order.
- 16 (10) To attend religious services and activities of his or her
17 choice.
- 18 (11) To maintain an emancipation bank account and manage
19 personal income, consistent with the child's age and developmental
20 level, unless prohibited by the case plan.
- 21 (12) To not be locked in a room, building, or facility premises,
22 unless placed in a community treatment facility.
- 23 (13) To attend school and participate in extracurricular, cultural,
24 and personal enrichment activities, consistent with the child's age
25 and developmental level, with minimal disruptions to school
26 attendance and educational stability.
- 27 (14) To work and develop job skills at an age-appropriate level,
28 consistent with state law.
- 29 (15) To have social contacts with people outside of the foster
30 care system, including teachers, church members, mentors, and
31 friends.
- 32 (16) To attend Independent Living Program classes and activities
33 if he or she meets age requirements.
- 34 (17) To attend court hearings and speak to the judge.
- 35 (18) To have storage space for private use.
- 36 (19) To be involved in the development of his or her own case
37 plan and plan for permanent placement.
- 38 (20) To review his or her own case plan and plan for permanent
39 placement, if he or she is 12 years of age or older and in a
40 permanent placement, and to receive information about his or her

1 out-of-home placement and case plan, including being told of
2 changes to the plan.

3 (21) To be free from unreasonable searches of personal
4 belongings.

5 (22) To the confidentiality of all juvenile court records consistent
6 with existing law.

7 (23) To have fair and equal access to all available services,
8 placement, care, treatment, and benefits, and to not be subjected
9 to discrimination or harassment on the basis of actual or perceived
10 race, ethnic group identification, ancestry, national origin, color,
11 religion, sex, sexual orientation, gender identity, mental or physical
12 disability, or HIV status.

13 *(24) To be placed in out-of-home care according to their gender*
14 *identity, regardless of the gender or sex listed in their court or*
15 *child welfare records.*

16 ~~(24)~~

17 (25) To have caregivers and child welfare personnel who have
18 received 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 ~~(25)~~

22 (26) At 16 years of age or older, to have access to existing
23 information regarding the educational options available, including,
24 but not limited to, the coursework necessary for vocational and
25 postsecondary educational programs, and information regarding
26 financial aid for postsecondary education.

27 ~~(26)~~

28 (27) To have access to age-appropriate, medically accurate
29 information about reproductive health care, the prevention of
30 unplanned pregnancy, and the prevention and treatment of sexually
31 transmitted infections at 12 years of age or older.

32 (b) Nothing in this section shall be interpreted to require a foster
33 care provider to take any action that would impair the health and
34 safety of children in out-of-home placement.

35 (c) The State Department of Social Services and each county
36 welfare department are encouraged to work with the Student Aid
37 Commission, the University of California, the California State
38 University, and the California Community Colleges to receive
39 information pursuant to paragraph~~(23)~~ (26) of subdivision (a).

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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