

Excerpts of SB 855 (Chapter 29, Statutes of 2014) related to Commercially Sexually Exploited Children

SEC. 64.

Section 300 of the Welfare and Institutions Code is amended to read:

300.

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

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

(b) (1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

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

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

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

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

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

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

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

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

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

It is the intent of the Legislature that nothing in this section disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental

discipline, or prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

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

SEC. 73.

Section 11460 of the Welfare and Institutions Code is amended to read:

11460.

(a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments or Indian tribes, consortia of tribes, or tribal organizations that have entered into an agreement pursuant to Section 10553.1.

(b) "Care and supervision" includes food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which he or she is enrolled at the time of placement. Reimbursement for the costs of educational travel, as provided for in this subdivision, shall be made pursuant to procedures determined by the department, in consultation with representatives of county welfare and probation directors, and additional stakeholders, as appropriate.

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider which are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish the maximum level of state participation in out-of-state foster care group home program rates effective January 1, 1992.

(1) The department shall develop regulations that establish the method for determining the level of state participation for each out-of-state group home program. The department shall consider all of the following methods:

(A) A standardized system based on the level of care and services per child per month as detailed in Section 11462.

(B) A system which considers the actual allowable and reasonable costs of care and supervision incurred by the program.

(C) A system which considers the rate established by the host state.

(D) Any other appropriate methods as determined by the department.

(2) State reimbursement for the AFDC-FC group home rate to be paid to an out-of-state program on or after January 1, 1992, shall only be paid to programs which have done both of the following:

(A) Submitted a rate application to the department and received a determination of the level of state participation.

(i) The level of state participation shall not exceed the current fiscal year's standard rate for rate classification level 14.

(ii) The level of state participation shall not exceed the rate determined by the ratesetting authority of the state in which the facility is located.

(iii) The level of state participation shall not decrease for any child placed prior to January 1, 1992, who continues to be placed in the same out-of-state group home program.

(B) Agreed to comply with information requests, and program and fiscal audits as determined necessary by the department.

(3) State reimbursement for an AFDC-FC rate paid on or after January 1, 1993, shall only be paid to a group home organized and operated on a nonprofit basis.

(d) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This shall apply regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(e) Nothing shall preclude a county from using a portion of its county funds to increase rates paid to family homes and foster family agencies within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county's expense.

(f) Nothing shall preclude a county from providing a supplemental rate to serve commercially sexually exploited foster children to provide for the additional care and supervision needs of these children. To the extent that federal financial participation is available, it is the intent of the Legislature that the federal funding shall be utilized.

SEC. 79.

Chapter 5.2 (commencing with Section 16524.6) is added to Part 4 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.2. Commercially Sexually Exploited Children Program

16524.6.

The Legislature finds and declares that in order to adequately serve children who have been sexually exploited, it is necessary that counties develop and utilize a multidisciplinary team approach to case management, service planning, and provision of services, and that counties develop and utilize interagency protocols to ensure services are provided as needed to this population.

16524.7.

(a) (1) There is hereby established the Commercially Sexually Exploited Children Program. This program shall be administered by the State Department of Social Services.

(2) The department, in consultation with the County Welfare Directors Association of California, shall develop an allocation methodology to distribute funding for the program. Funds allocated pursuant to this section shall be utilized to cover expenditures related to the costs of implementing the program, prevention and intervention services, and training related to children who are victims of commercial sexual exploitation.

(3) (A) Funds shall be provided to counties that elect to participate in the program for the provision of training to county children's services workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation and trafficking, and to foster caregivers for the prevention and identification of potential victims.

(B) The department shall contract to provide training for county workers and foster caregivers. Training shall be selected and contracted for in consultation with the County Welfare Directors Association, county children's services representatives, and other stakeholders. The department shall consult and collaborate with the California Community Colleges Chancellor's Office to provide training for foster parents of licensed foster family homes.

(4) Funds provided to the counties electing to participate in the program shall be used for prevention activities, intervention activities, and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation. These activities and services may include, but are not limited to, all of the following:

(A) Training foster children to help recognize and help avoid commercial sexual exploitation. Counties may target training activities to foster children who are at higher risk of sexual exploitation.

(B) Engaging survivors of commercial sexual exploitation to: (i) provide support to county staff who serve children who are victims of commercial sexual exploitation; (ii) for activities that may include training and technical assistance; and (iii) to serve as advocates for and perform outreach and support to children who are victims of commercial sexual exploitation.

(C) Consulting and coordinating with homeless youth shelters and other service providers who work with children who are disproportionately at risk of, or involved in, commercial sexual exploitation, including, but not limited to, lesbian, gay, bisexual, and transgender youth

organizations, regarding outreach and support to children who are victims of commercial sexual exploitation.

(D) Hiring county staff trained and specialized to work with children who are victims of commercial sexual exploitation to support victims and their caregivers, and to provide case management to support interagency and cross-departmental response.

(E) Providing supplemental foster care rates for placement of child victims of commercial sexual exploitation adjudged to be within the definition of Section 300 to be paid to foster homes, relatives, foster family agency certified homes, or other specialized placements to provide for the increased care and supervision needs of the victim in accordance with Section 11460.

(b) Funds allocated for the program shall not supplant funds for existing programs.

(c) (1) In order to ensure timely access to services to which commercially sexually exploited children are entitled to as dependents in foster care, in participating counties, county agency representatives from mental health, probation, public health, and substance abuse disorders shall participate in the case planning and assist in linking commercially sexually exploited children to services that serve children who are in the child welfare system and that are identified in the child's case plan and may include other stakeholders as determined by the county.

(2) The entities described in paragraph (1) shall provide input to the child welfare services agency regarding the services and supports needed for children to support treatment needs and aid in their recovery and may assist in linking these children to services that are consistent with their county plans submitted to the department pursuant to subdivision (d).

(d) (1) A county electing to receive funding from the Commercially Sexually Exploited Children Program pursuant to this chapter shall submit a plan describing how the county intends to utilize the funds allocated pursuant to paragraph (4) of subdivision (a).

(2) The county shall submit a plan to the department pursuant to a process developed by the department, in consultation with the County Welfare Directors Association. The plan shall include documentation indicating the county's collaboration with county partner agencies and children-focused entities, which shall include the formation of a multidisciplinary team to serve children pursuant to this chapter.

A multidisciplinary team serving a child pursuant to this chapter shall include, but is not limited to, appropriate staff from the county child welfare, probation, mental health, substance abuse disorder, and public health departments. Staff from a local provider of services to this population, local education agencies, and local law enforcement, and survivors of commercial sexual exploitation and trafficking may be included on the team.

16524.8.

(a) Each county electing to receive funds from the Commercially Sexually Exploited Children Program pursuant to this chapter shall develop an interagency protocol to be utilized in serving sexually exploited children. The county protocol shall be developed by a team led by a representative of the county human services department and shall include representatives from each of the following agencies:

- (1) The county probation department.
- (2) The county mental health department.
- (3) The county public health department.
- (4) The juvenile court in the county.

The team may include, but shall not be limited to, representatives from local education agencies, local law enforcement, survivors of sexual exploitation and trafficking, and other providers as necessary.

(b) At a minimum the interagency protocol shall address the provision of services to children who have been sexually exploited and are within the definition of Section 300, including, but not limited to, the use of a multidisciplinary team approach to provide coordinated case management, service planning, and services to children.

16524.9.

The State Department of Social Services, in consultation with the County Welfare Directors Association, shall ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are commercially sexually exploited, including children who are referred to the child abuse hotline, children currently served by county child welfare and probation departments who are subsequently identified as victims of commercial sexual exploitation.

- (a) The department shall disseminate any necessary instructions on data entry to the county child welfare and probation department staff.
- (b) The department shall implement this section no later than June 1, 2015.

16524.10.

The State Department of Social Services, no later than April 1, 2017, shall provide the following information to the Legislature regarding the implementation of this chapter:

- (a) The participating counties.
- (b) The number of victims served by each county.
- (c) The types of services provided.
- (d) Innovative strategies relating to collaboration with children, child service providers, and survivors of commercial sexual exploitation regarding prevention, training, and services.
- (e) The identification of further barriers and challenges to preventing and serving commercially sexually exploited children.

16524.11.

This chapter shall become operative on January 1, 2015.