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SB-731 Foster children: housing: gender identity. (2015-2016)

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Senate Bill No. 731

CHAPTER 805

An act to add Section 1502.8 to the Health and Safety Code, and to amend Section 16001.9 of, and to add Section 16006 to, the Welfare and Institutions Code, relating to foster care.

[Approved by Governor October 11, 2015. Filed with Secretary of State October 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law provides that a minor may be adjudged a dependent child of the juvenile court under specified circumstances. Existing law authorizes the court to place a minor who has been removed from the custody of his or her parent or guardian in foster care, among other placements. Existing law extends certain foster care benefits to youth up to 21 years of age, known as nonminor dependents if specified conditions are met.

Under existing law, a county social worker develops a case plan for a minor or nonminor dependent that, among other things, identifies specific goals and the appropriateness of the planned services in meeting those goals. Existing law requires, if out-of-home placement is used to attain case plan goals, the case plan to include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. Existing law also specifies certain factors that must be considered in making a placement decision.

This bill would require children and nonminor dependents in an out-of-home placement to be placed according to their gender identity, regardless of the gender or sex listed in their court or child welfare records. 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 bill would require the State Department of Social Services to adopt regulations consistent with this provision.

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.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1502.8 is added to the Health and Safety Code, to read:

1502.8. The department shall adopt regulations consistent with paragraph (24) of subdivision (a) of Section 16001.9 of the Welfare and Institutions Code.

SEC. 2. Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) It is the policy of the state that all minors and nonminors in foster care shall have the following rights:

- (1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.
- (2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
- (3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
- (4) To receive medical, dental, vision, and mental health services.
- (5) To be free of the administration of medication or chemical substances, unless authorized by a physician.
- (6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and probation officers.
- (7) To visit and contact brothers and sisters, unless prohibited by court order.
- (8) To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.
- (9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
- (10) To attend religious services and activities of his or her choice.
- (11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
- (12) To not be locked in a room, building, or facility premises, unless placed in a community treatment facility.
- (13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level, with minimal disruptions to school attendance and educational stability.
- (14) To work and develop job skills at an age-appropriate level, consistent with state law.
- (15) To have social contacts with people outside of the foster care system, including teachers, church members, mentors, and friends.
- (16) To attend Independent Living Program classes and activities if he or she meets age requirements.
- (17) To attend court hearings and speak to the judge.
- (18) To have storage space for private use.
- (19) To be involved in the development of his or her own case plan and plan for permanent placement.
- (20) To review his or her own case plan and plan for permanent placement, if he or she is 12 years of age or older and in a permanent placement, and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
- (21) To be free from unreasonable searches of personal belongings.
- (22) To the confidentiality of all juvenile court records consistent with existing law.
- (23) 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.

(24) 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.

(25) To have caregivers and child welfare personnel who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

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

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

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

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

SEC. 3. Section 16006 is added to the Welfare and Institutions Code, to read:

16006. Children and nonminor dependents in out-of-home care shall be placed according to their gender identity, regardless of the gender or sex listed in their court or child welfare records.

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