Senate Bill No. 1043

CHAPTER 628

An act to add Section 1180.55 to the Health and Safety Code, relating to short-term residential therapeutic programs.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1043, Grove. Short-term residential therapeutic programs: dashboard: seclusion or behavioral restraints.

Existing law, the California Community Care Facilities Act, provides for the licensing and regulation of community care facilities, including short-term residential therapeutic programs, by the State Department of Social Services. The act defines a short-term residential therapeutic program as a residential facility licensed by the department and operated by any public agency or private organization that provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term, 24-hour care and supervision to children that is trauma-informed.

Existing law requires specified facilities, including community care facilities, to conduct a clinical and quality review for each episode of the use of seclusion or behavioral restraints, as defined. Existing law requires the facility to conduct a debriefing regarding the incident with the person, and other specified individuals upon the person's request, to discuss how to avoid a similar incident in the future. Under existing law, the person's participation in the debriefing is voluntary.

This bill, The Accountability in Children's Treatment Act, would require, in the case of an incident involving the use of seclusion or behavioral restraints in a short-term residential therapeutic program, the facility to notify any foster child who has been subject to seclusion or behavioral restraints of their personal rights by no later than the day following the incident and to provide, within 7 days, a description of the incident, in both oral and written forms, to the person subject to the seclusion or behavioral restraints and, as applicable, to the person's parent, foster parent, guardian, Indian custodian, or other authorized representative, and attorney, if any, and for Indian children, the tribal representative. The bill would require that the description contain certain information, including the actions taken during the incident and its duration, the rationale for the actions, and the personnel approving and implementing the actions. The bill would require the facility to provide a copy of the written description to the department, also within 7 days.

The bill would require the department to review all reported incidents involving the use of seclusion or behavioral restraints and to investigate any incidents that indicate a potential health and safety concern or licensing violation. As part of the assessment to determine if an investigation is required, the bill would require the department to determine whether the use of seclusion or behavioral restraints potentially violated any licensing laws and regulations or violated the licensee's approved emergency intervention plan. If the department determines that an incident should be investigated, the bill would require the department to provide the Office of the State Foster Care Ombudsperson with a copy of the incident report and require the ombudsperson to exercise their discretion in determining whether to investigate the incident, as specified.

Existing law requires the Secretary of California Health and Human Services or their designee to take steps to establish a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of

seclusion and behavioral restraints in specified facilities, including community care facilities, that utilize seclusion and behavioral restraints. Existing law requires that data collected include, among other information, the number of incidents, the duration of time spent per incident, and the number of serious injuries or deaths occurring while the person is in seclusion or subject to behavioral restraints.

Existing law requires the secretary to develop a mechanism for making this information, as it becomes available, publicly available on the internet. Existing law requires the State Department of Social Services and other specified departments to annually provide information to the Legislature about the progress made in implementing the above-described provisions on data collection, clinical and quality review, and debriefing.

This bill would require the State Department of Social Services, by January 1, 2026, to display, on its internet website, data that is specific to short-term residential therapeutic programs. The bill would require the dashboard to display the above-described data on seclusion or behavioral restraints as applicable to those programs, the above-described written descriptions of the incidents, and the numbers and types of licensing and administrative actions taken for the improper use of seclusion or behavioral restraints by the short-term residential therapeutic program or an associated individual for the improper use of seclusion or behavioral restraints. The bill would require the department to update the information biannually.

Under the bill, this data would exclude any personally identifiable information, as specified, and the provisions of the bill would be implemented to the extent not in conflict with any applicable federal or state privacy laws.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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Bill Text

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

SECTION 1. This act shall be known, and may be cited, as The Accountability in Children's Treatment Act.

SEC. 2. Section 1180.55 is added to the Health and Safety Code, immediately following Section 1180.5, to read:

1180.55. (a) In the case of an incident involving the use of seclusion or behavioral restraints in a short-term residential therapeutic program, the facility shall, in conjunction with its process for a clinical and quality review and a debriefing as described in Section 1180.5, comply with all of the following steps:

(1) By no later than the day following the incident, notify any foster child who has been subject to seclusion or behavioral restraints of their personal rights, as specified in Section 16001.9 of the Welfare and Institutions Code, including, among others, the right to be provided with the contact information of the Community Care Licensing Division of the State Department of Social Services and the Office of the State Foster Care Ombudsperson, the right to contact either or both of these offices immediately upon request regarding any violations of the foster child's rights, the right to speak to representatives of these offices confidentially, and the right to be free from threats or punishment for making complaints.

(2) Within seven days, provide a description of the incident, in both oral and written forms, to the person who was subject to seclusion or behavioral restraints and, as applicable, to the person's parent, foster parent, guardian, Indian custodian, or other authorized representative, and attorney, if any, and for Indian children, as

defined by subdivisions (a) and (b) of Section 224.1 of the Welfare and Institutions Code, the tribal representative. At a minimum, the description shall contain information on all of the following:

(A) The actions taken during the incident.

(B) The rationale for the actions.

(C) The personnel implementing the actions.

(D) The duration of the incident.

(3) Within seven days, provide a copy of the written description described in paragraph (2) to the State Department of Social Services.

(b) (1) The State Department of Social Services shall review all reported incidents involving the use of seclusion or behavioral restraints and shall investigate any incidents that indicate a potential health and safety concern or licensing violation. As part of the assessment to determine if an investigation is required, the department shall determine whether the use of seclusion or behavioral restraints potentially violated any licensing laws and regulations or violated the licensee's approved emergency intervention plan.

(2) If the department determines that an incident involving the use of seclusion or behavioral restraints should be investigated, the department shall provide the Office of the State Foster Care Ombudsperson with a copy of the incident report. The ombudsperson shall exercise their discretion in determining whether to investigate the incident pursuant to paragraph (3) of subdivision (a) of Section 16164 of the Welfare and Institutions Codes.

(c) (1) By January 1, 2026, the department shall display, on its internet website, data that is specific to short-term residential therapeutic programs and that displays all of the following:

(A) Data collected pursuant to paragraph (4) of subdivision (c) of Section 1180.3, with regard to seclusion or behavioral restraints, as applicable to short-term residential therapeutic programs.

(B) Written descriptions collected pursuant to subdivision (a), subject to the limitations described in subdivision (d).

(C) The number and types of licensing administrative actions taken against a short-term residential therapeutic program or individual associated with the short-term residential therapeutic program for the improper use of seclusion or behavioral restraints.

(D) Completed investigation reports.

(2) The department shall update the data described in paragraph (1) biannually.

(d) (1) Data described in subdivision (c) shall exclude any personally identifiable information of the person, personnel, or other individuals listed in paragraph (2) of subdivision (a).

(2) This section shall be implemented to the extent not in conflict with any applicable federal or state privacy laws.