



Assemblymember Robert Rivas, 30th Assembly District

AB 1140 – Unaccompanied Immigrant Child Protection Act

SUMMARY

Unaccompanied immigrant children in California-state licensed Office of Refugee Resettlement (ORR) facilities are not provided access to the same oversight protections and resources as all other children in state-licensed childcare settings. Assembly Bill 1140 will clarify the jurisdiction and responsibilities of the Foster Care Ombudsperson to provide oversight of the welfare of unaccompanied immigrant children in state-licensed childcare settings.

BACKGROUND

The U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR) holds approximately 2,500 unaccompanied immigrant children annually in federal custody in California-licensed facilities.ⁱ ORR holds these children until they are reunited with their family or a sponsor, or transferred to an appropriate long-term foster care placement. Since 2014, approximately 39,000 unaccompanied children were released from ORR custody to sponsors and family members in California, more than in any other state.ⁱⁱ

The federal government is required to provide care for unaccompanied children in state-licensed childcare settings.ⁱⁱⁱ Negative or harmful experiences in such settings can affect a child’s ability to heal trauma, reunite with their families, and integrate successfully into California communities.

The California Office of the Foster Care Ombudsperson is an independent, impartial, and confidential tasked with ensuring proper treatment of youth in state-licensed childcare settings, and educating youth and licensed programs about their rights and responsibilities under California law.^{iv}

PROBLEM

Each year, thousands of unaccompanied children fleeing violence, war and poverty enter the United States, and are temporarily taken into federal custody in state-licensed childcare facilities. Yet unaccompanied children can fall through the cracks of protective state laws because they do not clearly have someone to whom they can turn to investigate and resolve problems regarding their treatment or access to services.

The Ombudsperson plays a crucial role in safeguarding the rights and interests of Californian children, but

unaccompanied children in federal custody are not explicitly protected when state-licensed programs have failed to meet their obligations.

Ideally, unaccompanied children who are not yet or will not be reunited with family will be held in safe and developmentally-appropriate foster care, group homes, or other state-licensed facilities. However, a 2019 Disability Rights California report on California ORR facilities underscored how state-licensed facilities underserve unaccompanied immigrant children. The report found that unaccompanied children frequently did not receive proper educational assessments or adequate mental health and medical evaluations and care.^v

SOLUTION

AB 1140 will clarify that unaccompanied immigrant children fall under the jurisdiction of the Ombudsperson. The Ombudsperson will have the authority to engage in critical oversight of unaccompanied children held in state-licensed ORR facilities.

AB 1140 will ensure that unaccompanied immigrant children can access the services through the Ombudsperson’s Office, just like other children in California’s care. Some examples of the Ombudsperson’s responsibilities and services include: investigating complaints made by or on behalf of unaccompanied children about treatment in state-licensed childcare settings; educating childcare program staff about their state licensing obligations and children’s personal rights under California state law; ensuring that children can exercise their right to communicate with parents, family members, and sponsors; ensuring children have access to resources in their own languages; and assisting children with finding flexible and alternative educational options suitable for their specific need, among others. AB 1140 will also help program staff at ORR facilities understand their state licensing obligations and children’s rights under state law.

Together, these important measures will clarify the jurisdiction and responsibilities of the Ombudsperson and provide unaccompanied children access to resources that are provided to all Californian children in state-licensed childcare settings.



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SUPPORT

- Immigrant Defense Advocates (IDA) (co- sponsor)
- Immigrant Legal Resource Center (ILRC) (co-sponsor)
- Kids in Need of Defense (KIND) (co-sponsor)
- Legal Services for Children (LSC) (co-sponsor)
- National Center for Youth Law (NCYL) (co-sponsor)
- Vera Institute of Justice (co-sponsor)
- Youth Law Center (YLC) (co-sponsor)

FOR MORE INFORMATION

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ⁱ This number is extrapolated from the approximate number of ORR funded beds for children in California licensed facilities and the average length of stay of children in ORR custody. *See generally* U.S. Dept. of Health & Human Services, “Latest UC Data – FY2021” (Feb. 9, 2021), <https://www.hhs.gov/programs/social-services/unaccompanied-children/latest-uc-data-fy2021/index.html>; Cal. Dept. of Social Services, Facility Search, <https://www.cld.dss.ca.gov/carefacilitysearch>.

ⁱⁱ Office of Refugee Resettlement, “Unaccompanied Alien Children Released to Sponsors By State” (Sept. 27, 2019),

<https://www.acf.hhs.gov/orr/grant-funding/unaccompanied-alien-children-released-sponsors-state>.

ⁱⁱⁱ 45 Code of Federal Regulations §410.202.

^{iv} California Office of the Foster Care Ombudsperson, <https://fosteryouthhelp.ca.gov>.

^v Disability Rights California, “The Detention of Immigrant Children with Disabilities in California: A Snapshot,” 2019, <https://www.disabilityrightsca.org/system/files/file-attachments/DRC-ORR-Report.pdf>.