



Protecting the Rights of Unaccompanied Immigrant Children in California

February 19, 2021--Child and immigration advocates welcome the introduction today of [AB 1140](#) by Assemblymember Robert Rivas (D-Hollister) that would ensure children who come to the United States alone to seek safety are receiving the same care as other California children in state-licensed settings. Unaccompanied children who cross into the United States are taken into federal custody in state-licensed childcare facilities, and California state standards for the care of children are more specific than the federal requirements. This bill would ensure that unaccompanied children receive care according to state requirements.

Thousands of unaccompanied children come to the United States each year to seek safety. They are temporarily taken into the custody of the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR) in state-licensed childcare facilities. They remain in these facilities until an appropriate sponsor can be found or until they can be placed into long-term foster care while they undergo immigration proceedings.

[A 2019 Disability Rights California report](#) resulting from monitoring California ORR facilities report found meager and cursory educational assessments and inadequate mental health and medical evaluations and care, all falling short of California state standards.

More unaccompanied children are present in California than any other state in the country. On average, approximately 2,500 unaccompanied children are held in ORR custody annually in California-licensed facilities. Since the start of Fiscal Year 2015, approximately 33,000 unaccompanied children were released from ORR custody to sponsors and family members in California.

Assemblymember Rivas's bill would protect children in ORR-run facilities licensed by the state of California and clearly delineate their rights and implement clear mechanisms for oversight, investigation, and enforcement of these rights.

The bill would clarify the jurisdiction of the California Office of the Foster Care Ombudsperson and its responsibility to engage in important oversight of children held in these facilities. The office has been crucial in safeguarding the rights and best interests of these children when programs have failed to meet their obligations, and to also educate these programs about their responsibilities under California law.

The Youth Law Center's Senior Staff Attorney Maria Ramiu notes that the current pandemic highlights the need for the Foster Care Ombudsman's office to continue to keep its watchful eye on all children in foster care facilities where the inherent risks of group care are now heightened, the challenges of providing required services and protections are increased, and the number of outside eyes that can provide oversight is reduced. Children placed by federal immigration in these settings are by definition separated from family and community that could otherwise monitor what is going on and advocate, making the Foster Care Ombudsman's role even more critical.

The bill's supporters include: Kids in Need of Defense (KIND) (co-sponsor); Youth Law Center (YLC) (co-sponsor); Legal Services for Children (LSC) (co-sponsor); Immigrant Defense Advocates (IDA) (co-sponsor); Vera Institute of Justice (co-sponsor); National Center for Youth Law (NCYL) (co-sponsor); Immigrant Legal Resource Center (ILRC) (co-sponsor); Immigrant Defenders Law Center; and Public Counsel.

The bill, AB 1140 (Rivas), can be found [here](#).

Quotes from organizations:

Cindy Liou, State Policy Director, Kids in Need of Defense (KIND):

"Assemblymember Rivas' bill will ensure that children who come alone to the United States fleeing violence, abuse, and other grave harm will be treated as vulnerable children in need of care, regardless of where they were born or their immigration status. California is a leader in the protection of children. This bill will ensure that the state's vision will encompass all children in its facilities and set a national example."

Jackie Gonzalez, Policy Director, Immigrant Defense Advocates:

"California has long been a leader in protecting vulnerable populations. This bill ensures that we provide proper oversight and protection for all children in our state."

Maria Ramiu, Youth Law Center, Senior Staff Attorney:

"Every child in out-of-home care, whether placed by federal immigration, child welfare, or juvenile justice agencies, must have someone to whom they can turn to resolve problems regarding their treatment or services while under the care of the government. This bill will ensure that the Foster Care Ombudsman's office will continue to help children in federal immigration custody in state licensed residential facilities and other foster care settings resolve problems in accessing school, connecting with family, and being subjected to harmful practices like solitary confinement."

Shaina Aber, Deputy Director, Center on Immigration and Justice, Vera Institute of Justice:

"California is a national leader in safeguarding the rights of children in federal immigration custody who are held in state-licensed foster facilities and programs. The importance of the state's role in enforcing licensing standards for children subjected to federal immigration custody while awaiting community-based sponsors was never more apparent than over the past four years. Vera welcomes Assemblymember Rivas' introduction of a bill that will clarify the continuity of California's oversight practices and ensure that all children in California-licensed facilities are treated in accordance with child welfare, health and safety standards, regardless of immigration or custodial status."

Melissa Adamson, Attorney, National Center for Youth Law:

“As counsel representing all children in federal immigration custody, we have seen firsthand how the lack of adequate oversight can compromise the quality of care that unaccompanied children receive. Assemblymember Rivas' bill is a critical step forward in clarifying California's role in protecting the safety and welfare of these vulnerable children.”

Rachel Prandini, Staff Attorney, Immigrant Legal Resource Center:

“When the federal government takes custody of unaccompanied immigrant children, it is required to hold them in state-licensed facilities. The state of California is home to many such facilities. This bill clarifies that unaccompanied children are entitled to the same rights and grievance procedures as all other children in out-of-home care in the state. This is the least that California can do to ensure humane treatment of children in immigration custody.”

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