CWDA

April 27, 2015

The Honorable Kansen Chu
Chair, Assembly Human Services Committee
State Capitol, Room 5175
Sacramento, CA 95814

Dear Assembly Member Chu:

RE: AB 403 (Stone) As Amended April 21, 2015 – SUPPORT IN CONCEPT

The County Welfare Directors Association of California (CWDA) has taken a position of SUPPORT IN CONCEPT on AB 403 by Assembly Member Stone.

AB 403 is legislation sponsored by the California Department of Social Services (CDSS) to implement recommendations in the Continuum of Care Reform (CCR) report released in January by the department. Trailer bill language enacted as part of the 2012-13 Budget required CDSS to convene a stakeholder group to examine the programs serving children and families in the child welfare system, including services received in foster family homes and group homes. CWDA staff and county representatives participated actively in the group, along with numerous stakeholders, and we support the group's goals of reducing the use of group home placements, creating a true continuum of care for children in need of services, and enhancing caregivers' ability to care for abused and neglected children in the most family-like settings possible.

We agree with CDSS Director Will Lightbourne that overhauling the state's continuum of care for children in foster care is a necessary undertaking to ensure that we are providing these traumatized children with the full array of services needed to support them and ameliorate the effects of the abuse and neglect they have incurred. As a key partner of CDSS in the efforts to improve and monitor outcomes in the foster care and child welfare system, we commend CDSS for producing a report and related recommendations that strike important balances between the differing perspectives of numerous stakeholders. CWDA supports the effort to reform the continuum of care, and our comments and recommendations should be viewed in that light.

As currently in print, AB 403 makes significant strides toward implementing the recommendations of the CCR stakeholder group. In reviewing the bill, we have identified a number of amendments as well as several key areas we believe need further discussion among the author, sponsor and stakeholders as the bill moves forward. We discuss these issues at a high level in this letter and look forward to working closely with CDSS and other stakeholders to develop amendments that address these areas.

Approach to Overhauling Group and FFA Care

The bill sunsets the current group home licensing structure effective January 1, 2018, and replaces it with a new type of care home called a "short term residential treatment center" or STRTC, which can begin operating during a transition year that starts January 1, 2017. The bill also adds a new layer of requirements for Foster Family Agency (FFA) certified homes, sometimes setting forth different requirements for

homes identified as "treatment" vs. "non-treatment." This approach is consistent with the discussion in the CCR that a new structure of residential treatment facilities is needed. We have some few questions and recommendations specific to how the bill effectuates this.

- Requirements for placement into STRTC vs treatment FFA home: Several sections of the bill take requirements that today apply only to level 13 and 14 group homes – the highest levels of group homes in existence – and apply those requirements not only to the new STRTCs, but also to all treatment FFA homes. In general, we expect STRTCs to provide a higher (though shorter term) level of care than a treatment FFA home, and we expect more treatment FFA homes to exist than STRTCs, meaning that applying the same standards to them raises both policy and practicality issues. While in the new continuum of care, it may make sense to have all STRTCs meet the stringent requirements applied today only to the highest level group homes, as they are intended to be a more intensive, short-term placement for the highest-need children, should every treatment FFA home also meet these requirements?

  We understand the department agrees that these sections should be further discussed, and appreciate that greatly. Currently, CDSS is working with a stakeholder group to revise the FFA rate-setting system; including in this existing effort a discussion of the requirements for the two types of FFA homes and how to access their services seems like an expedient approach to resolving this question. A critical goal of that discussion should be to ensure we do not end up with a shortage of family-based homes being available to step children down from STRTCs. In the meantime, it seems appropriate to remove the new requirements on treatment FFAs from the bill, with the understanding that they may be added back later in the process (for some or all treatment homes, and for some or all children) after the stakeholder group has completed its work.

- Limitation to SED Children – In some areas, it appears the bill would bar STRTCs and treatment FFA homes from accepting any child who was not assessed as being "seriously emotionally disturbed." This was not a recommendation of the CCR workgroup, and we are concerned that it would force an increase in SED diagnoses simply to enable children who need the services offered by these facilities to receive those services. We understand that the department agrees and is open to reviewing the language in the bill to ensure that it could not be interpreted as creating this requirement, which we appreciate.

Child and Family Teams

The bill creates a new structure for team-based decision-making for children in the child welfare system, called Child and Family Teams (CFTs). The structure of the CFTs is outlined in the bill (see Section 41), though we suggest some intent language be added to more clearly delineate the purpose of the teams, which have been used in the implementation of the Katie A. settlement (but AB 403 would broaden their use).

- Approval/veto authority over placement decisions: Although the purpose of the CFT is stated as "a supportive team that informs the process of placement and services to children in youth in foster care or at risk of foster care placement" (p. 78 line 29), language elsewhere in the bill requires the CFT to "determine" that a child is in need of the level of

care provided by a STRTC or treatment FFA home, and to "approve in writing" all placements in these homes (See Section 60, page 132). This would also give the CFT veto power over a placement into a STRTC or treatment FFA home if one or more members of the team refused to agree that this placement was warranted.

CWDA and counties very much support the development of CFTs and recognize the important role that parents, caregivers, other trusted people in a child's life, and the child themselves can play in informing placement decisions as well as shaping the services and supports a child and his or her family receive while in care. However, the bill goes much further than the recommendation in the report, which is to ensure that all placing agencies "utilize Child and Family Teams in assessing the child and family's needs and strengths and use that assessment for case planning and to match a child to the most appropriate placement setting."

Requiring that a CFT not just inform but actually sign off on the placement prior to a child being eligible for placement in a STRTC or treatment FFA home is counter to the state law that vests responsibility for the placement and care of the child in the county child welfare agency (see Welfare and Institutions Code Section 11400 *et seq)* as well to federal law, which requires responsibility for placement and care to be vested in either the state agency or a public agency with whom the state has an agreement (in the case of California, this is the county child welfare agency or probation agency for most children, see Section 472(a)(2)(B) of the federal Social Security Act).

Ideally, the team-based approach envisioned by AB 403 and the CCR – an approach that we support – should result in consensus recommendations that are put into effect to the greatest extent possible by the county, and would not result in disagreements; ultimately, however, the county child welfare agency, as the legal entity having responsibility for the placement and care of the child, is responsible for making placement and service decisions that are in the best interest of the child, and for reporting to and discussing those decisions with the dependency court. We have discussed this concern with the department; we will continue to work with them to resolve this concern as the bill moves forward and are confident that we can work out amendments that more closely mirror the recommendations of the CCR group, in which the CFT plays a critical role in informing placement and service decisions for the child and family and developing a child and family services and needs assessments, but is not approving or vetoing placement decisions of the county. In the meantime, we ask that the language giving CFTs authority over placement decisions be removed from the bill.

- Ability to determine child is SED: Currently, only an interagency placement committee (IPC) or licensed mental health professional are able to make this assessment. Throughout the bill, numerous sections now add the new CFTs as an entity that may make this assessment. It is not clear to us whether it is appropriate to use the CFT for this purpose, or even practical, given that the current version of the bill does not even require a behavioral health representative to participate on the group in every case. While the CFT should inform the decision as to whether the child is SED or not, it seems that the current structure, where an IPC or a mental health professional makes the determination that a child is SED, is more appropriate.

- Provision of information about confidentiality and signed confidentiality agreements: We agree that ensuring all team members understand the confidentiality requirements is important, however, we feel the language in the bill goes a bit far in requiring, for example, the team to be informed prior to every meeting about the confidentiality requirements in addition to being informed prior to the team getting underway. We will suggest some amendments here.

Process for Issues not Addressed in CCR Workgroup

During the workgroup process, some issues came up that could not be fully addressed in the time available and were thus put into a "parking lot" for future work. We are discussing with CDSS the development of some language requiring the department to work with stakeholders to continue the discussions on these critical items. Two examples include:

- Ensuring that the continuum of care considers the needs of children with developmental disabilities and coordinates with the regional center system as appropriate.

- How the continuum of care will work for nonminor dependents, especially nonminor dependents who have specialized care needs that are not easily met in the community at large.

As noted above, the CCR as implemented by AB 403 represents a significant change in the continuum of services available to children in foster care and how those services are structured and accessed via residential treatment. We and CDSS have discussed the need to work closely together to ensure that there is readiness for these transitions, as the state comes upon the key dates in the bill of January 1, 2017 for the repeal of the group home statutes and enactment of the STRTC structure, and January 1, 2018 for the transition to STRTCs and other residential options to be complete. The creation of a full continuum of care also requires that less-intensive family based care also be available for children, including licensed foster family homes and relative caregivers. Counties need sufficient resources and support from the department to recruit, support, and retain these caregivers, and we need to be able to ensure that all caregivers can access services for children timely when needed. The January budget contained funding for this purpose, which we appreciate, and we are working through the budget process to enhance that funding to a sufficient level. Also, for these reasons, we suggest the development of uncodified language that would request the state provide periodic progress updates on the implementation efforts. Such updates could include, for example, progress in securing needed mental health certifications and contracts for service providers. Ensuring the transition process is orderly and carried out effectively is crucial in order to ensure that services are not discontinued for traumatized children prior to the full implementation of the new options and their associated requirements.

CWDA fully supports the CCR effort and commends CDSS for striking a critical balance in the report between numerous stakeholder points of view and possible processes. We are committed to working with the author, CDSS, and others to ensure the development of a final bill that will ensure services are readily available to the children we serve in foster care through a thoughtful and appropriate continuum of care that takes into account the needs and voices of children and their families, caregivers and other supporters. We are confident that we can achieve this goal, and appreciate consideration of our issues and recommendations as the bill moves forward through the legislative process.

Sincerely,

Frank Mecca
Executive Director

cc: The Honorable Mark Stone
Will Lightbourne, Director, California Department of Social Services
Honorable Members, Assembly Human Services Committee
Daphne Hunt, Consultant, Assembly Human Services Committee
Mary Bellamy, Assembly Republican Consultant
Donna Campbell, Office of Governor Jerry Brown
Patricia Huston, California Department of Social Services
Farrah McDaid-Ting, California State Association of Counties
County Caucus