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Honorable Edmund G. Brown, Governor
State of California
State Capitol, Suite 1173
Sacramento, CA 95814

Re: Request for Signature on AB 2005 (Ridley-Thomas) –
Juveniles: out-of-state placement.

Dear Governor Brown:

We write on behalf of the Youth Law Center to request your signature on Assembly Bill 2005, which will improve placement decisions for youth in foster care who are supervised by probation. AB 2005 provides clarification and reinforcement of existing requirements for placing these youth in out-of-state facilities by:

- requiring a juvenile court finding by clear and convincing evidence that (a) the out-of-state facility or program is the most appropriate and in the best interests of the minor, and (b) in-state facilities or programs have been considered and are unavailable or inadequate to meet the needs and best interests of the minor;
- clarifying that current law does not authorize juvenile courts to commit minors to a juvenile home, ranch, camp, or forestry camp outside the state; and
- incorporating conforming provisions in Sections 727.1 and 727.4 of the Welfare and Institutions Code.

Youth Law Center is a California-based national public interest law firm that advocates for children in the child welfare and juvenile justice systems. Since 1978, Youth Law Center has worked across the United States to reduce the use of out-of-home care and incarceration, ensure safe and humane conditions in out-of-home placements, keep children out of adult jails, and secure equitable treatment for children in the child welfare and juvenile justice systems. Our efforts focus on strengthening families and advocating for children to receive the parenting, education, health services, legal support, and transition services needed to assure their success in care and in the community.

Youth Law Center is pleased to co-sponsor AB 2005 because it will better ensure that youth under probation supervision are placed in facilities outside of California only as a last resort, when there is good reason to believe that an identified program is the best placement for the individual child at issue and no in-state alternative is adequate or available for that child.

Proceeding with the thought and care AB 2005 will assure is fitting for the stakes involved. Research has confirmed that removing youth from their families and communities can interfere with healthy development, impede rehabilitation, and fracture support systems that could otherwise help them succeed when they return home. Yet despite the harms associated with such distant placements and reports of youth not receiving adequate care and even suffering abuse, California has seen increasing reliance on out-of-state programs for youth placed in foster care by probation.

AB 2005 will not prohibit or limit out-of-state placements. It will merely ensure that such a placement is the right decision for the child who may be sent as far away as Texas, Pennsylvania, Iowa, or Florida. When California cannot meet a youth's needs, an out-of-state program may be necessary, but the placement decision should take into consideration the drawbacks of such a distant placement and whether a placement closer to home is available and more appropriate.

AB 2005's change to existing law is modest but important. Most significantly, it specifies an evidentiary standard – that of “clear and convincing evidence” – for the findings a court must make in an order of placement in an out-of-state facility. The bill thus requires a showing that there is a “high probability” that a particular out-of-state program is the most appropriate and in the best interests of the individual child and that in-state programs have been considered and are not available or adequate to meet the child's needs and best interests. *See In re Angelia P.* (1981) 28 Ca.3d 908, 919 (explaining evidentiary standards).

The “clear and convincing evidence” standard is appropriate where “particularly important individual interests or rights are at stake,” as they are when foster children are placed in out-of-state facilities. *Weiner v. Fleischman* (1991) 54 Cal.3d 476, 487. The standard helps guard against mistakes and accounts for what is often a significant gap between the child and the state in resources and knowledge of placement options. Overall, it brings a greater measure of due process to the children whose futures are on the line. Given the substantial costs and stakes involved in out-of-state placements for probation-supervised youth – including family separation at a critical time, heightened risk of harm, and serious barriers to rehabilitation, reunification, and re-entry – it is critical that these placements be judged by a commensurate and clear standard, as AB 2005 will ensure.

Beyond this, AB 2005 merely aligns the placement statute with existing law that is scattered across multiple code provisions, including Welfare and Institution Code (WIC) Sections 706.6, 727, and 727.1, Family Code Section 7901, and Court Rule 5.616(e). WIC Section 706.6 sets forth foster care case-planning requirements for probation. AB 2005 incorporates those specific to out-of-state facility placements, so the criteria for placement orders issued under WIC 727.1(b) will mirror the criteria for the placements themselves. This kind of syncing of related statutes is common and can only help in bringing greater clarity to an oft-confusing area of law. For the same reason, AB 2005 confirms that the notice requirements of WIC Section 727.4 apply to the hearing that must be held before a court may make findings and issue an order of placement in an out-of-state facility.

Without adding any new burdens, and without limiting the range or number of placement options available to probation officers, AB 2005 thus reinforces the need to hew to the existing case-planning requirements for foster care placements by probation and ensures that courts give due examination to the propriety of out-of-state placements for individual children. Where there has been the thought, care, and integrity we should be able expect in the process, AB 2005 will not stand in the way of any out-of-state program placement that is most appropriate for an individual child's needs and best interests. It will, however, ensure that a distant and potentially harmful placement is avoided when it is not right for the child involved and when an in-state alternative can better serve her and allow her to be closer to vital family and community supports. California's youth deserve this much.

For all these reasons, we respectfully ask you to sign AB 2005 into law, and we thank you for your leadership.

Sincerely,

A handwritten signature in black ink, appearing to be "Jennifer Rodriguez", written over a horizontal line.

Jennifer Rodriguez, Executive Director
Robin Goldfaden, Staff Attorney