

Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 465 (Eggman) – As Introduced February 11, 2019

SUBJECT: Juveniles: dual status children

SUMMARY: Establishes a number of definitions to be used when tracking the involvement of youth in both the child welfare and juvenile justice systems. Specifically, **this bill:**

- 1) States Legislative intent to enact legislation that would replace the term “delinquency” with “juvenile justice” in all statutes that address child welfare and juvenile justice.
- 2) Replaces, in one section of current law, the term “delinquency” with “juvenile justice.”
- 3) Repeals provisions of current law that require the Judicial Council to convene a stakeholder committee that is required to, by January 1, 2018, develop and report recommendations to the Legislature to facilitate and enhance comprehensive data and outcome tracking for youth involved with both the child welfare system and the juvenile justice system, as specified.
- 4) Defines the following terms for purposes of tracking the involvement of youth in both the child welfare system and the juvenile justice system:
 - a) “AWOL” to mean an instance when a child absconds from a court-ordered placement without permission, resulting in the issuance of a protective custody warrant;
 - b) “Child welfare history” to mean any prior referral that was actively investigated, as specified, and any previously open child welfare case;
 - c) “Child welfare crossover youth” to mean a youth whose child welfare case has been terminated in favor of a juvenile justice finding and wardship disposition;
 - d) “Child welfare re-detention” to mean a child’s removal from a parent following reunification and family maintenance, prior to case dismissal;
 - e) “Child welfare re-entry” to mean a child’s return to foster care after a child welfare case dismissal;
 - f) “Couch surfing” to mean moving frequently between temporary living arrangements with local households, as specified, while lacking a permanent or stable home;
 - g) “Diversion” to mean suspension of any formal juvenile justice proceedings and either a dismissal of the petition or an informal agreement of participation of the youth and family in services designed to avoid system penetration;
 - h) “Dual status youth” to mean a youth simultaneously declared a dependent and a ward of the court;
 - i) “Dually identified youth” to mean a youth with previous contact in one system and current contact with the other, as specified;

- j) Defines “dually involved youth” to mean a youth who is currently a child welfare or juvenile justice youth and has formal or informal action, pending or active, through child welfare, probation, or the respective court;
 - k) Defines “homeless” to mean couch surfing or sleeping on the street or in a vehicle, a shelter, or other temporary accommodations without a permanent residence to which a person can return;
 - l) Defines “informal child welfare services” to mean any referrals to community-based services provided to families who come to the attention of child welfare services, but do not meet statutory criteria for formal intervention;
 - m) Defines “informal probation” to mean a status of probation when a youth has been diverted from formal wardship status;
 - n) Defines “juvenile justice crossover youth” to mean a youth whose juvenile justice case has been terminated in favor of a child welfare finding;
 - o) Defines “permanency” to mean that a child achieves reunification with a parent, legal guardianship, adoption, or customary adoption for tribal youth;
 - p) Defines “recidivism” to mean any criminal or juvenile justice dispositions made within three years of a previous juvenile justice disposition;
 - q) Defines “runaway” to mean leaving home without permission from the parents, probation department, or child welfare department; and,
 - r) Defines “voluntary services” to mean services provided to families in lieu of filing a petition or subsequent to dismissal of a petition already filed, with the consent of the family.
- 5) Makes technical changes.

EXISTING LAW:

- 1) Permits the juvenile court to adjudge a child a dependent of the court for specified reasons, including, but not limited to, if a child has suffered or is at substantial risk of suffering serious physical harm, emotional damage, or sexual abuse, as specified. (Welfare and Institutions Code Section [WIC] Section 300)]
- 2) Permits the juvenile court to order and adjudge to be a ward of the court the following individuals, as specified: a minor between the ages of 12 and 17 who has committed a status offense; a minor between the ages of 12 and 17 who violates state or federal law; or, a minor under the age of 12 who is alleged to have committed certain violent crimes. (WIC 725 (b))
- 3) Requires the court, in certain circumstances, to order the care, custody, and control of a minor or nonminor adjudged a ward of the court to be under the control of a probation officer, and authorizes the probation officer to place the minor or nonminor in a number of settings, including, as specified and with age restrictions in some cases: the approved home relative or of a nonrelative, extended family member; a foster home, approved resource family home, or a home or facility in accordance with the federal Indian Child Welfare Act; a

suitable licensed community care facility; a foster family agency, in a suitable certified family home or with a resource family; and a group home or short-term residential therapeutic program (STRTP). (WIC 727)

- 4) Requires that, if a child is both a dependent and a delinquent, the probation department and child welfare services agency must initially determine which status will best serve the interests of the child and the protection of society, as specified. Further, though, authorizes the probation department and the child welfare services agency in any county, in consultation with the presiding juvenile court judge, to create a dual status protocol which would permit a minor who meets specified criteria to be designated simultaneously as both a dependent child and a ward of the juvenile court. (WIC 241.1)
- 5) Requires the Judicial Council to convene a stakeholder committee that is required to, by January 1, 2018, develop and report recommendations to the Legislature to facilitate and enhance comprehensive data and outcome tracking for youth involved with both the child welfare system and the juvenile justice system, as specified. (WIC 241.2 (a))
- 6) Requires the California Department of Social Services (CDSS) to, by January 1, 2019, implement a function within the applicable case management system that will enable county child welfare agencies and county probation departments to identify youth involved in both the child welfare system and juvenile justice system who are within their counties and, further, requires CDSS to issue instructions to all counties on how to completely and consistently track the involvement of these youth in both the child welfare and juvenile justice systems. (WIC 241.2 (b))

FISCAL EFFECT: This bill was keyed nonfiscal by the Legislative Counsel.

COMMENTS:

Dual status youth: Some youth, for various reasons, become involved with both the child welfare services system and the juvenile justice system. This can be through: being simultaneously adjudicated a dependent and a ward of the court; being dually involved with both systems, even if not being simultaneously adjudicated as both a dependent and a ward; or “crossing over” from one system to the other.

Outcomes for these youth can be poorer than outcomes for their non-system-involved peers or for peers who are involved in only one system. As such, dually involved youth often require more, and more intensive, supports and services to address their needs. A 2016 report from the California Child Welfare Co-Investment Partnership observed that, “Young people who come into contact with both the child welfare and juvenile justice systems are among the most vulnerable of California’s children. These young people are more likely to be separated from their families, experience frequent placement changes, suffer behavioral health problems, and have poor educational outcomes when compared with children not in contact with both systems.”

Historically, a youth in California could not typically be adjudged both a dependent of the court and a ward of the court at the same time – the youth either entered into, and received services from, the child welfare service system or did so through the juvenile justice system. However, AB 129 (Cohn), Chapter 468, Statutes of 2004, authorized the probation department and the child welfare services department in any county to create a protocol which would permit a minor

who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court. There are currently 18 counties with dual jurisdiction protocols, available on the Judicial Council website. The Judicial Council was required to collect data in order to evaluate the effectiveness of dual status protocols, but this requirement only extended through the first two years of the bill's implementation, beginning in 2005.

The State Auditor released an audit in February of 2016 entitled, "Dually Involved Youth: The State Cannot Determine the Effectiveness of Efforts to Serve Youth Who Are Involved in Both the Child Welfare and Juvenile Justice Systems." This audit looked at case files from three dual status counties (i.e., counties with protocols) and three nondual status counties (where the case files of crossover youth were examined). The State Auditor observed that:

"This report concludes that, absent a requirement to do so, most of the counties we visited have not monitored outcomes to assess the effectiveness of their efforts with dually involved youth.... While state law does not require state agencies to provide guidance or counties to track such information, best practice models recommend collecting data and tracking outcomes. To better address the needs of dually involved youth, various national best practices suggest that agencies start by designing and implementing uniform data collection and reporting systems, identifying their population of dually involved youth, and then beginning to track certain attributes and outcomes such as information related to youths' delinquent activities, placements, and history of maltreatment. In California, state agencies have provided the counties with only limited guidance related to tracking dually involved youth. Specifically, the State has not defined key terms or established outcomes to track related to dually involved youth, thus it cannot monitor the outcomes for this population statewide."

Some of the specific recommendations made by the State Auditor included:

- "To ensure that county CWS and probation agencies are able to identify their populations of dually involved youth, the Legislature should require Social Services to do the following:
 - Implement a function within the statewide case management system that will enable county CWS and probation agencies to identify dually involved youth.
 - Issue guidance to the counties on how to use the statewide case management system to track joint assessment hearing information completely and consistently for these youth."
- "To better understand and serve the dually involved youth population, the Legislature should require the Judicial Council to work with county CWS and probation agencies and state representatives to establish a committee, or to work with an existing committee, to do the following:
 - Develop a common identifier counties can use to reconcile data across CWS and probation data systems statewide.

- Develop standardized definitions for terms related to the populations of youth involved in both the CWS and probation systems, such as dually involved, crossover, and dual status youth.
- Identify and define outcomes for counties to track for dually involved youth, such as outcomes related to recidivism and education.
- Establish baselines and goals for those outcomes.”

AB 1911 (Eggman), Chapter 637, Statutes of 2016, enacted a number to the State Auditor’s recommendations.

AB 1911: AB 1911 required the Judicial Council to convene a stakeholder committee that was required to, by January 1, 2018, develop and report recommendations to the Legislature to facilitate and enhance comprehensive data and outcome tracking for youth involved with both the child welfare system and the juvenile justice system.

It also required CDSS to, by January 1, 2019, implement a function within the applicable case management system that will enable county child welfare agencies and county probation departments to identify youth involved in both the child welfare system and juvenile justice system who are within their counties, and required CDSS to issue instructions to all counties on how to completely and consistently track the involvement of these youth in both the child welfare and juvenile justice systems. CDSS reports that the functionality is being piloted at this time in CWS/CMS to track dual-status youth and crossover youth, and should be live for all counties to use in early June. Prior to implementation into CWS/CMS, CDSS issued All-County Letter No. 17-59, with instructions for the special project codes to be utilized.

Pursuant to the requirements of AB 1911, the Judicial Council convened a working group of representatives from probation, county and state social services, attorneys, policy advocates, and education officials. This working group met several times over the period of one year and conducted research and consulted various experts. In 2017, the Judicial Council released a report entitled “Dual-Status Youth Data Standards (AB 1911),” which, in compliance with the requirements of AB 1911, contained a number of recommendations. These are summarized below:

- Terms and definitions: The working group recommended modifying language in current statute such that “dependency” and “dependent” are replaced with “child welfare” and “child welfare youth,” respectively, and “delinquency” and “delinquent” replaced with “juvenile justice” and “juvenile justice youth.” The working group also recommended adopting and codifying a range of terms, defined in the report, related to specific categories of youth involved with both the child welfare and juvenile justice systems, tracking outcomes of identified youth, and other factors related to the experiences of dually involved youth and the systems with which they are involved.
- Common identifier: The working group recommended that a unique identifier be generated to assist counties in reconciling data across systems, and further recommended that the matching process initially be done through an annual records reconciliation audit. The working group also recommended that the Legislature further explore costs and

logistics associated with creating a master repository that could allow for transactional or real-time tracking for case management of youth involved in both systems.

- **Outcomes to track:** The working group suggested starting by tracking those outcomes that can currently be measured using existing data in domains of education, recidivism and other juvenile justice events, child welfare re-entry and re-detention, placement stability, and participation in extended foster care. The working group also provided additional, more robust outcomes that could be tracked in the longer term using new methods of data collection. In addition to the topics that AB 1911 required recommendations on (recidivism, health, pregnancy, homelessness, employment, and education), the working group also recommended tracking outcomes related to substance abuse, placement stability, extended foster care participation, and commercial sexual exploitation.
- **Baselines and goals:** The working group stated that, “Because there is no baseline data that currently exists nationwide or statewide in any state for this population, it is recommended that baselines be set at the county level as a result of two to three years of statewide data collection and outcome analysis regarding this population of youth. It is further recommended that in addition to the demographic data currently collected (name, date of birth) the following demographic data be collected: race/ethnicity, sexual orientation, and gender identity.”

Need for this bill: This bill codifies the identifying terms and terms necessary for tracking outcomes that are recommended in the Judicial Council’s “Dual-Status Youth Data Standards (AB 1911)” report (additionally, the bill codifies a definition of “couch-surfing”). This bill also states Legislative intent to, per the report’s recommendation, replace the term “delinquency” with “juvenile justice” in all statutes that address child welfare and juvenile justice.

According to the author, “[This bill] will provide guidance to better track youth involved in both the child welfare system and the juvenile justice system. There are currently no standardized definitions for terms relating to youth involved in both systems. The working group, convened by the judicial council, has created standardized definitions for these terms as well as common identifiers the counties can use to track outcomes for this population.”

Double referral: This bill passed out of the Assembly Judiciary Committee on March 19, 2019, with a 12-0 vote.

PRIOR LEGISLATION:

AB 1911 (Eggman), Chapter 637, Statutes of 2016, required the development and implementation of standardized definitions and defined goals for youth involved with both the child welfare system and the juvenile justice system.

AB 2813 (Bloom), Chapter 646, Statutes of 2016, removed certain circumstances under which a probation officer may detain a minor who has been taken into temporary custody, and narrowed the circumstances under which a probation officer may decide to detain a youth who is currently a dependent of the juvenile court, or the subject of a petition to declare him or her a dependent of the juvenile court. Further, AB 2813 required that a probation officer immediately release a minor who is a dependent of the juvenile court, or is the subject of a petition to declare them a

dependent of the juvenile court, to the custody of the child welfare system or their current foster parent or other caregiver, unless continued detention is a matter of immediate necessity.

AB 388 (Chesbro), Chapter 760, Statutes of 2014, provided additional clarification on how juvenile courts may consider a child's status as a dependent minor when determining whether to place that child into delinquency, and required CDSS to make additional licensing information and monitoring requirements for child welfare placements, including group homes, available to the public.

AB 129 (Cohn), Chapter 468, Statutes of 2004, authorized the probation department and the child welfare services department in any county to create a protocol which would permit a minor who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court.

REGISTERED SUPPORT / OPPOSITION:

Support

Center for Public Interest Law/Children's Advocacy Institute/University of San Diego (Sponsor)

John Burton Advocates for Youth (Sponsor)

Juvenile Court Judges of California/California Judges Association

Opposition

None on file

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