
THIRD READING

Bill No: AB 465
Author: Eggman (D)
Amended: 5/29/19 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/10/19
AYES: Hurtado, Beall, Jackson, Pan, Wiener
NO VOTE RECORDED: Stone

SENATE JUDICIARY COMMITTEE: 9-0, 6/18/19
AYES: Jackson, Borgeas, Durazo, Lena Gonzalez, Jones, Monning, Stern,
Umberg, Wieckowski

ASSEMBLY FLOOR: 76-0, 4/25/19 (Consent) - See last page for vote

SUBJECT: Juveniles: dual status children

SOURCE: Children's Advocacy Institute/University of San Diego

DIGEST: This bill establishes a number of definitions to be used when tracking the involvement of youth in both the child welfare and juvenile justice systems.

ANALYSIS:

Existing law:

- 1) Establishes a system of juvenile dependency for children for specified reasons, including but not limited to children who are, or are at risk of, being physically, sexually, or emotionally abused, being neglected or being exploited, to ensure their safety, protection, and physical and emotional well-being, as specified.
(*WIC 300 et seq.*)
- 2) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or

emotionally abused, neglected or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm.

(WIC 300.2)

- 3) 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))*
- 4) 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 of a relative, or 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. *(WIC 727)*
- 5) Requires that, if a child is both a dependent and a delinquent, the probation department and child welfare services (CWS) 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 CWS 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)*
- 6) 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))*
- 7) 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))

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 the Welfare and Institutions Code, 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 various terms relating to dual status youth for the purposes of tracking the involvement of youth in both the child welfare system and the juvenile justice system.
- 5) Makes technical changes.

Background

Purpose of this bill. According to the author, “AB 465 provides guidance to better track youth involved in both the child welfare system and the juvenile justice system.” This bill codifies standardized definitions for terms relating to youth involved in both systems, as they were defined by a statutorily required working group that was convened by the Judicial Council. “There are currently no standardized definitions for terms relating to youth involved in both system, this bill seeks to create such definitions in statute as well as common identifiers that the counties can use to track outcomes for this population,” per the author.

Child welfare services. California’s CWS system is an essential component of the state’s safety net. This system seeks to ensure the safety and protection of the children, and where possible, preserve and strengthen families through visitation and family reunification. It is the state’s goal to reunify a foster child or youth with their biological family whenever possible. In instances where reunification is not possible, it is the state’s goal to provide a permanent placement alternative such as adoption or guardianship, with the second highest placement priority of the CWS

system being to unite children with other relatives or nonrelative extended family members.

As of October 1, 2018, there were 59,487 children in California's CWS system.

Dual status youth. In 2004, California passed AB 129 (Cohn, Chapter 468, Statutes of 2004), which made it possible for "dual status youth" who are involved in both the CWS and the juvenile justice systems to receive the oversight and benefits of both systems. Prior to passage of AB 129, the law required that cases involving foster youth who were also involved in the juvenile justice system had to be placed into either the child welfare or the justice system.

AB 129 allowed counties to voluntarily adopt formal dual status protocols, through which youth can simultaneously be under the formal jurisdiction of both the dependency and delinquency courts. Per AB 129, those protocols must describe the process for assessing the eligibility for and necessity of dual status youth, the communication between judges in the dependency and delinquency courts, the collection of data for the Judicial Council evaluation, and the adoption of either a "lead court/lead agency" or "on-hold" model.

AB 129 also required Judicial Council to collect and compile data, to evaluate the results of implementing the dual status protocols, and report its finding to the Legislature. The study, which was conducted in 2007, revealed that the counties' implementation of protocols and experiences varied greatly.

According to the Judicial Council Web site, only 18 of California's 58 counties have elected to develop dual status protocols. Because of local flexibility, dual status jurisdictions have different operating protocols and may or may not be comparable. Additionally, some of the counties that have not opted to adopt dual status protocols are working on independent projects to help dual status youth.

Historically, outcomes for dual status youth have been reported to be poorer than outcomes for their non-system-involved peers or for peers who are involved in only one system. It is thus often believed that dually involved youth require more, and more intensive, supports and services to address their unique needs. A 2016 report from the California Child Welfare Co-Investment Partnership noted 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 education outcomes when compared with children not in contact with both systems."

State Auditor findings on dual status youth. In June 2015, the Joint Legislative Audit Committee directed the Bureau of State Audits, at the request of the author of this bill, to conduct an audit to determine whether counties are addressing the needs of dual status youth. The resulting report was issued in February of 2016.¹ As noted in the State Auditor's report, the audit was unable to determine how county programs were performing because the state had not issued guidelines to counties on how to track or identify dual status youth and thus most counties were found to not be assessing the effectiveness of their efforts.

Per the Auditor, "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. Furthermore, the State cannot perform a robust comparison between the populations of youth involved in dual status and nondual status counties." Without consistent definitions, and tracking of attributes and outcomes, it is impossible to reach conclusions about best models and practices, determined the Auditor. For example, the counties all defined recidivism differently, so it was not possible to say which protocols, programs or services might be working to reduce recidivism in these youth.

The Auditor recommended that the Legislature require Judicial Council to work with a variety specified of stakeholders to develop common definitions and outcome measures. The Auditor also recommended that CDSS, which operates the state case management automation system for tracking youth in the child welfare system (CWS/CMS), develop a function in that system to allow staff in both the child welfare and juvenile justice systems to identify youth involved with both systems and issue guidance on how to use that function and fully track those youth.

AB 1911. AB 1911 (Eggman, Chapter 637, Statutes 2016) implemented many of the State Auditor's recommendations related to the Judicial Council and CDSS. AB 1911 required CDSS to, by January 1, 2019, implement a function within the applicable case management system that would enable the identification of a dual-status or crossover youth in a county by the county's child welfare agency and probation department. It also required CDSS to issue instructions to all counties on how to completely and consistently track the involvement of dual-status youth in both the child welfare and juvenile justice systems. According to CDSS, the required functionality is being piloted at this time in CWS/CMS to track dual-status and crossover youth. CDSS further reports that the functionality should be available for all counties use in early June and CDSS has already issued an All-County Letter, No. 17-59, with instructions for the project codes to be utilized.

¹ <https://www.bsa.ca.gov/pdfs/reports/2015-115.pdf>

AB 1911 also 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 outcomes tracking for youth involved with both the child welfare and juvenile justice systems. Pursuant to these requirements, 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 course of one year, while also conducting research and consulting various experts on the child welfare and juvenile justice systems. In 2017, the Judicial Council released the result of working group's efforts – a report entitled “Dual-Status Youth Data Standards (AB 1911).” This report, in compliance with the requirements of AB 1911, presented various recommendations relating to codifying terms relating to dual status youth and counties collection of data on that population. (For an enumerated list of these recommendations, see the Senate Human Services Committee's analysis of this bill.)

This bill codifies the report's recommendations related to statutory terminology and the adoption and codification of certain terminology.

Governor's propose reorganization of the Division of Juvenile Justice. In his proposed 2019-20 Budget, Governor Newsom included a reorganization of the Division of Juvenile Justice. The proposal would move the Division of Juvenile Justice from the California Department of Corrections and Rehabilitation to a new department under the Health and Human Services Agency. The Governor's Budget Summary suggests this reorganization is due to the Division's focus on improving rehabilitation. The Budget Summary also states, “This change will enable the state to better provide youth offenders with services needed to be successful when they are released.”

Related/Prior Legislation

AB 1911 (Eggman, Chapter 637, Statutes 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 CWS 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/21/19)

Children's Advocacy Institute/University of San Diego (source)
 American Academy of Pediatrics
 California Alliance of Child and Family Services
 California Council of Community Behavioral Health Agencies
 California Youth Connection
 John Burton Advocates for Youth
 Judicial Council of California
 Juvenile Court Judges of California
 National Association of Social Workers, California Chapter

OPPOSITION: (Verified 6/21/19)

None received

ASSEMBLY FLOOR: 76-0, 4/25/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson,

Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas,
Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel,
Waldron, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Chen, Eduardo Garcia, Gray

Prepared by: Marisa Shea / HUMAN S. /
6/26/19 16:00:24

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