

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

AB 531 (Friedman)
Version: May 16, 2019
Hearing Date: July 9, 2019
Fiscal: Yes
Urgency: No
JT

SUBJECT

Foster youth: housing

DIGEST

This bill increases the housing options available for youth in the extended foster care system.

EXECUTIVE SUMMARY

It is frequently the case that children who remain in foster care until adulthood are not prepared for life on their own. To help facilitate their transition to independence, California provides extended foster care benefits for former foster youth between the ages of 18 and 21, also known as nonminor dependents (NMDs). While these services have improved outcomes and provided numerous benefits for participating young adults, many of them still experience homelessness and housing instability.

This bill seeks to address housing issues for older foster youth who are reentering foster care or who are transitioning between placements in extended foster care. In broad strokes, the bill would (1) enable more families to provide transitional care and provide more placement stability for NMDs; (2) streamline the supervised independent living process; (3) allow certain approved caregivers of youth in extended foster care to convert to a host family without additional certification; (4) require counties to examine their ability to meet the emergency housing needs of NMDs, and (5) allow counties, upon appropriation in the annual Budget Act, to request funds for the purpose of providing housing navigation services to youth, as provided.

The bill is co-sponsored by Alliance for Children's Rights, Children's Law Center of California, County Welfare Directors Association, and GRACE. It has no known opposition. The Senate Human Services Committee passed the bill by a vote of 6-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that a child may become a dependent of the juvenile court and be removed from the control of their parents or guardian on the basis of abuse or neglect. (Welf. & Inst. Code § 300.)
- 2) Requires that the status of every dependent in foster care be reviewed by the court at least once every six months, as specified. (Welf. & Inst. Code §§ 366 & 366.3.)
- 3) Provides that, as of January 1, 2012, the court may have within its jurisdiction any NMD, between the age of majority and 21 years. Further provides that an NMD retains all of their legal decision-making authority as an adult, except as specified. (Welf. & Inst. Code § 303.)
- 4) Provides that a nonminor ages 18-21 continues to receive foster care assistance under certain conditions, including that one or more of the following conditions exist:
 - a. the nonminor is working toward their high school education or an equivalent credential;
 - b. the nonminor is enrolled in a postsecondary institution or vocational education program;
 - c. the nonminor is participating in a program or activity designed to promote or remove barriers to employment;
 - d. the nonminor is employed for at least 80 hours per month; and
 - e. the nonminor is incapable of doing any of the activities described above, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. (Welf. & Inst. Code § 11403.)
- 5) Establishes the California Community Care Facilities Act (Health & Saf. Code § 1500 et seq.) to establish a coordinated and comprehensive statewide service system of quality care for, among others, children and adults who require care or services by a facility or organization, as specified (Health & Saf. Code § 1501(a)). Establishes, within that act, the Transitional Housing Placement Program. (Health & Saf. Code § 1559.110.)
- 6) Requires the State Department of Social Services (DSS) to license transitional housing placement providers, which are privately operated nonprofits that provide transitional service to foster children who are at least 16 years of age to promote their transition to adulthood. (*Id.* at § 1559.110(b).) Transitional housing

placement providers are required to certify that housing units are adequate, safe, and sanitary. (*Id.* at (c).)

- 7) States that transitional housing units must include any of the following:
 - a. a host family certified by a transitional housing placement provider with whom a participant lives in an apartment, single-family dwelling, or condominium owned, rented, or leased by the host family;
 - b. a staffed site in which a participant lives in an apartment, single-family dwelling, or condominium owned, rented, or leased by a transitional housing placement provider either with an adult employee of the provider who provides supervision or in a building in which one or more adult employees of the provider reside and provide supervision; and
 - c. a remote site – available only to nonminors – in which a participant lives independently in an apartment, single-family dwelling, or condominium owned, rented, or leased by a transitional housing placement provider under the supervision of the provider if the department provides approval. (*Id.* at (d).)
- 8) Recognizes that transitions to independence involve self-initiated change in placements, and expresses the intent of the Legislature that regulations regarding the approval of a supervised independent living setting ensure continuity of placement and payment while the NMD awaits approval of a new supervised independent living setting. (Welf. & Inst. Code §§ 11402.2, 11400(w).)
- 9) Establishes eligibility criteria for transitional housing, including for former foster youths between 18 and 24 years of age who elect to participate in the Transitional Housing Program-Plus, as specified. (Welf. & Inst. Code § 11403.2(a)(2)(A).) Requires payment on behalf of an eligible person receiving transitional housing services to be made to the transitional housing placement provider. (*Id.* at (b).)
- 10) Requires DSS to provide technical assistance and encourage and facilitate the county placement agency's evaluation of placement needs and the development of needed placement resources and programs. (Welf. & Inst. Code § 16001(a).) Requires county placement agencies, on a regular basis, to conduct an evaluation of the county's placement resources and program in relation to the needs of children placed in out-of-home care. (*Id.*)

This bill:

- 1) States that it is the intent of the Legislature to ensure local child welfare agencies have clear guidance and authorization to place NMDs on a short-term basis when they are reentering foster care or are transitioning between placements in extended foster care.

- 2) Provides that a host family may provide transitional housing services without being certified by a transitional housing placement provider if it is an approved resource family, a licensed foster family home, certified foster family home, approved relative caregiver, or a nonrelative extended family member of a participant.
- 3) Provides that every 12 months a county may certify that a supervised independent living placement meets health and safety standards, as long as the housing option remains listed in a database maintained by the county and the county has no reason to believe that the health and safety condition of the housing option have changed.
- 4) Provides that if an eligible NMD receiving transitional housing services lives with a host family, the provider shall ensure that the payment is equally divided between the transitional housing placement provider, the host family, and the NMD, unless a different apportionment is agreed to by all parties.
- 5) Requires counties, in conducting a regular evaluation of their placement resources and programs to consider NMDs placed in out-of-home care, including the county's ability to meet emergency housing needs of NMDs.
- 6) Requires a county to continue to approve payment to a transitional housing placement provider for up to 14 days in which the NMD is absent from placement if the NMD provides notice that they intend to return or the provider has reason to believe they will return within 14 days. Prohibits the provider from filling the NMD's place during that period, unless their caseworker determines that the NMD's return is unlikely.
- 7) Provides that in order to support an NMD, facilitate placement stability, and promote connections to adult support while also enabling NMDs to develop independent living skills and financial literacy, a resource parent, approved relative caregiver or non-relative extended family member, foster family home, or certified family home may be converted to a host family without additional certification.
- 8) Subject to an appropriation, authorizes a child welfare agency to request funding from DSS to provide housing navigation services to foster youth who will soon enter extended foster care and NMDs to assist in securing an eligible placement and promoting stability in their housing arrangements.

COMMENTS

1. Background

a. Dependency proceedings

The juvenile dependency system is designed to protect children from abuse and neglect, while also preserving the rights of parents and families. (See *In re Alexander* (1957) 152 Cal.App.2d 458, 461.) The overarching goal of dependency proceedings is to safeguard the welfare of California's children. (*In re Josiah Z.* (2005) 36 Cal.4th 664, 673.) There are approximately 60,000 children in California's foster care system.

Juvenile court proceedings commence when a social worker files a petition under sections 311 and 332. The purpose of the petition is to protect the child from some parental deficiency, not to punish the parent. (See *In re Alysha S.* (1996) 51 Cal.App.4th 393, 397; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) The petition must establish a prima facie case that the child is a victim of abuse or neglect under specified conditions described in section 300.

If the child needs immediate care or is in immediate danger, the child may be removed from a parent's physical custody and may be placed in the temporary custody of the social worker, a responsible relative, or guardian. (§§ 305, 306.) If the social worker determines that the child should be detained in custody, the social worker is required to file a petition with the juvenile court. (§ 290.1.) The court then holds a detention hearing to determine whether the child should be further detained. (§ 315.)

The hearing on the petition to determine whether the child is a victim of abuse or neglect under section 300, which is held after detention or an initial hearing, is known as the "jurisdictional" hearing. Under section 300, the court has jurisdiction to adjudge the child a dependent if a preponderance of the evidence shows that the child has suffered, or is substantial risk of suffering, serious harm.

After sustaining the petition's allegations and establishing jurisdiction over the child, the court holds a separate "dispositional" hearing to decide where the child will live. (§ 361(a).) A dependent child may not be taken from the physical custody of a parent, guardian, or custodian unless the juvenile court finds clear and convincing evidence that at least one of several specified conditions showing that the child is endangered applies. (*Id.* at (c).)

b. Nonminors

Each year in California, about 5,000 youth emancipate from foster care, which is by far the largest number of any state in the Union. According to data from the state's Child Welfare Services/Case Management System, about 52,000 Californians emancipated

from foster care between 1999 and 2009. The immediate outcomes for these young adults are sobering. Studies have shown that former foster youth, when compared to other young adults of the same age and race, are less likely to complete high school, attend college, or be employed. They are also at a higher risk for becoming homeless, arrested, or incarcerated.¹

Over the years, the Legislature has sought to protect this vulnerable population. The California Fostering Connections to Success Act (Beall & Bass, Ch. 559, Stats. 2010) authorized the juvenile courts to exercise jurisdiction over and extend foster care benefits to NMDs between the ages of 18 to 21 if they are eligible for specified public assistance and one or more of the following conditions exist:

- the nonminor is working toward their high school education or an equivalent credential;
- the nonminor is enrolled in a postsecondary institution or vocational education program;
- the nonminor is participating in a program or activity designed to promote or remove barriers to employment;
- the nonminor is employed for at least 80 hours per month; and/or,
- the nonminor is incapable of doing any of the activities described above, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. (Welf. & Inst. Code § 11403.)

Existing law authorizes the court to retain jurisdiction over a dependent who becomes a nonminor (§ 303(a)), or, if the court terminates jurisdiction over a nonminor, the nonminor may petition the court for reinstatement of jurisdiction (§ 388(e)). The court may not terminate its jurisdiction over an NMD until a hearing pursuant to section 391 is conducted and the county welfare department has submitted a report verifying that required information, documents, and services have been provided to the nonminor. Additionally, the report must describe whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction. For any youth who is continuing dependency as a nonminor, the report must include a recommended Transitional Independent Living Case Plan. (Welf. & Inst. Code § 391(b)(2).)

The transitional plan must include an individualized plan for the youth to satisfy one or more of the criteria in section 11403(b) and the youth's anticipated placement as specified in section 11402. The plan must also include the youth's alternate plan for their transition to independence, including housing, education, employment, and a support system. (Cal. Rules Ct. 5.707(b).)

¹ See Public Policy Institute of California, *Foster Care in California* (2010).

c. Placement Options

Extended foster care is strictly voluntary. Youth who opt into the program are eligible for three types of placement:

- They may remain in the home of a relative or non-related extended family member, a licensed or certified foster family home, or the home of a non-related legal guardian, as specified. A youth also may remain in a group home after age 19 only if certain criteria is met and the placement is short-term.
- Supervised Independent Living Placement (SILP) allows a youth to live independently in an apartment, house, condominium, room and board arrangement or college dorm while receiving the supervision of a social worker or probation officer. Under a SILP, a youth may live alone or with roommates, and may directly receive all or part of the foster care rate.
- The Transitional Housing Placement Program (THPP) was originally created for 16- and 17-year-olds to provide a safe living environment where youth could practice skills needed to live independently upon exiting the foster care system. The program provides supervised transitional housing and supportive services, based on a youth's transitional independent living plan.

Former foster youth are eligible for Transitional Housing Program-Plus (THP-Plus), which is an optional, county-certified placement option for former foster youth ages 18 to 24, who exited foster care at or after age 18. Youth in this program are not eligible for foster care payments, and the goal of the program is to provide a safe living environment for as long as 24 months while helping the youth develop skills necessary to live successfully independently.

With the enactment of extended foster care, an additional model of transitional housing was created for NMDs, but with underlying licensure requirements of the THPP program. The THP-Plus-Foster Care (THP+FC) program allows a youth to live with a host family who has been selected and approved by the transitional housing provider or a single site where the NMD lives in an apartment, condominium or home that is rented or leased by the housing provider with an employee living on site. A third option allows an NMD to live independently in an apartment, condominium or home with regular supervision from the provider.

d. Youth Homelessness

Homeless children and youth are defined by the federal McKinney-Vento Homeless Assistance Act of 2011 (42 U.S.C. § 11301 et seq.) as minors younger than 18 or young adults between 18 and 24 years of age who "lack a fixed, regular, and adequate nighttime residence." The U.S. Department of Housing and Urban Development (HUD) reported in its Annual Homeless Assessment Report that, on a single night in 2018, almost 553,000 people experience homelessness across the United States. Of that total, approximately 36,000 of the counted individuals were unaccompanied youth, and 51

percent of those youth were unsheltered. HUD further reported that California had the largest number of unaccompanied youth experiencing homelessness, with 12,396 homeless youth being counted. Thus, in 2018, according to the HUD report, California's homeless youth population represented one-third of all unaccompanied youth experiencing homelessness in the country.

Former foster youth are at high risk of experiencing homelessness. An annual study of California's foster youth and former foster youth participating in THP+FC and THP-Plus programs conducted by John Burton Advocates for Youth details the rates of youth exiting those programs who had previously experienced homelessness. This study found that, from 2016 to 2017, more than half of the youth in THP-Plus had experienced homelessness prior to entering the program and nearly one third enter the program directly from homelessness or unstable housing. The study further reported that 25 percent of THP+FC youth had experienced homelessness prior to entering the program and 8 percent of youth who entered THP+FC had done so directly from homelessness or unstable housing.²

2. Increases the availability of supportive housing and services for NMDs

Alliance for Children's Rights, a co-sponsor of the bill, indicates that their work with NMDs confirms that the extended foster care program has provided numerous benefits for participating young adults, including improvements in education, employment, housing, and social support, as well as reductions in pregnancy and criminal justice involvement. However, they have also observed a lack of capacity and supports within the program, causing hundreds of young adults to experience homelessness or housing instability. Alliance for Children's Rights argues that in order to achieve the vision of the extended foster care program, investments in housing and support for young people must be made.

This bill serves this goal in several ways. First, the bill would enable more families to provide transitional care and provide more placement stability for NMDs. Specifically, the bill provides that a host family may provide transitional housing services without being certified by a transitional housing placement provider if the host family is an approved resource family, a licensed foster family home, certified foster family home, approved relative caregiver, or a nonrelative extended family member of a participant. The bill also provides that if an eligible NMD receiving transitional housing services lives with a host family, the provider shall ensure that the payment is equally divided between the transitional housing placement provider, the host family, and the NMD, unless a different apportionment is agreed to by all parties. Additionally, the bill requires a county to continue to approve payment to a transitional housing placement

² John Burton Advocates for Youth, *THP+FC & THP-Plus Annual Report 2016-2017* (Sept. 2017) <https://www.jbaforyouth.org/wp-content/uploads/2017/09/2016-17-THPFC-THP-Plus-Annual-Report-1.pdf> (Jul. 1, 2019).

provider for up to 14 days in which the NMD is absent from placement if the NMD provide notice that they intend to return or the provider has reason to believe they will return within 14 days. The bill prohibits the provider from filling the NMD's place during that period, unless their caseworker determines that the NMD's return is unlikely.

Second, the bill streamlines the supervised independent living process by providing that every 12 months a county may certify that a SILP meets health and safety standards, as long as the housing option remains listed in a database maintained by the county and the county has no reason to believe that the health and safety condition of the housing option have changed.

Third, the bill provides that in order to support an NMD, facilitate placement stability, and promote connections to adult support while also enabling NMDs to develop independent living skills and financial literacy, a resource parent, approved relative caregiver or non-relative extended family member, foster family home, or certified family home may be converted to a host family without additional certification.

Fourth, the bill requires counties, in conducting a regular evaluation of their placement resources and programs to consider NMDs placed in out-of-home care, including the county's ability to meet emergency housing needs of NMDs.

Finally, subject to an appropriation, the bill authorizes a child welfare agency to request funding from DSS to provide housing navigation services to foster youth who will soon enter extended foster care and NMDs to assist in securing an eligible placement and promoting stability in their housing arrangements.

These changes will make more housing and supportive services available to NMDs.

3. Arguments in support

The author writes:

Research has shown that the Extended Foster Care (EFC) Program has numerous benefits for participants. Overall, more time spent in EFC was found to decrease the number of economic hardships youth encountered. In fact, more time in EFC was significantly associated with a reduced risk of homelessness. However, the research has also shown that even with the benefits available through the EFC Program, many youth are still experiencing homelessness.

The purpose of the EFC Program is to prevent homelessness among youth as they enter early adulthood. However, without sufficient supported housing, the vision of EFC is falling flat. AB 531 attempts to bridge the housing gaps for youth in EFC by establishing housing navigators at the county level to help transition

age youth and non-minor dependents access and maintain sustainable housing that meets their needs. In addition, the bill requires counties to assess their ability to meet the housing needs of individuals in the EFC Program, reduce barriers, and streamline the certification process for host families.

SUPPORT

Alliance for Children's Rights (co-sponsor)
Children's Law Center of California (co-sponsor)
County Welfare Directors Association (co-sponsor)
GRACE (co-sponsor)
California Alliance of Caregivers
California State Association of Counties
California State PTA
Children Now
City and County of San Francisco
County of Santa Clara
Junior League of Fresno
Juvenile Court Judges of California
Los Angeles County Board of Supervisors
National Association of Social Workers, California Chapter
Ventura County Board of Supervisors
YMCA Kinship Support Program

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

AB 302 (Berman, 2019), until 2023, requires that a community college district either grant homeless students overnight access to on-campus parking facilities so that they may sleep in their vehicles, or provide such students with specified housing services. The bill will be heard in this Committee on the same day as this one.

AB 718 (Eggman, 2019) begins a process for providing foster youth certain information, documents, and services that facilitate the youth's transition to living independently when the youth turns 16 rather than the age of 18 under existing law. The bill will be heard in this Committee on the same day as this one.

AB 728 (Santiago, 2019) until 2025, creates a pilot program in seven counties that expands existing provisions governing homeless adult and family multidisciplinary

personnel teams that currently apply to homeless adults to additionally apply to individuals at risk of homelessness, including individuals who recently exited, or who will soon exit, the juvenile dependency system. The bill will be heard in this Committee on the same day as this one.

AB 748 (Gipson, 2019) provides that youth who were subject to an order for foster care before they reached 18 years of age, but were not yet adjudged dependents of the juvenile court before reaching their 18th birthday, are eligible for extended foster care benefits. The bill will be heard in this Committee on the same day as this one.

Prior Legislation:

AB 612 (Mitchell, Ch. 731, Stats. 2017) made a number of changes to the program rules and educational requirements for transitional housing programs available to minors and NMDs in foster care.

SB 1252 (Torres, Ch. 774, Stats. 2014) authorized a county to choose to extend THP-Plus to former foster youth not more than 25 years of age and for a total of 36 cumulative months if the former foster youth is completing secondary education or is enrolled in an institution that provides postsecondary education.

AB 1712 (Beall, Ch. 846, Stats. 2012) enabled a dependent youth to continue receiving foster care, Kinship Guardian Assistance Payments and other funding after age 18, if they are NMDs, and added THP+ Foster Care to the list of programs licensed by DSS.

AB 12 (Beall, Ch. 559, Stats. 2010), the California Fostering Connections to Success Act, enabled youth aging out of foster care to opt into extended foster care between the ages of 18 and 21.

AB 427 (Hertzberg, Ch. 125, Stats. 2001), established the Foster Youth Transitional Housing Fund to pay for transitional housing costs for foster and emancipated youth

PRIOR VOTES:

Senate Human Services Committee (Ayes 6, Noes 0)

Assembly Floor (Ayes 77, Noes 0)

Assembly Appropriations Committee (Ayes 18, Noes 0)

Assembly Human Services Committee (Ayes 8, Noes 0)
