

Date of Hearing: March 22, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 1735 (Bryan) – As Amended March 15, 2022

SUBJECT: Foster care: rights

SUMMARY: Clarifies, in the Foster Youth Bill of Rights, that youth have the right to be provided a copy of the Foster Youth Bill of Rights in their primary language. Adds to the Foster Youth Bill of Rights, the right of foster youth to receive a copy of the court report, case plan, and transition to independent living plan (TILP) in the their primary language. Specifically, **this bill:**

- 1) Clarifies the right of foster youth to be provided a copy of the Foster Youth Bill of Rights in their primary language.
- 2) Adds to the Foster Youth Bill of Rights, the right of foster youth, when entitled to receive a copy of the court report, case plan, and TILP, for those items to be provided in the their primary language.
- 3) Clarifies that the case plan foster youth 12 years of age or older receive is required to be translated and provided in their primary language.
- 4) Requires the TILP that foster youth 16 years of age or older receive to be translated into their primary language.

EXISTING LAW:

- 1) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being neglected, exploited, and/or physically, sexually, and emotionally abused and to ensure the safety of children who are at risk of that harm. Specifies that safety, protection, and physical and emotional well-being may include the provision of social and health services to help the child and family and a balanced focus on the health and well-being of the child along with the preservation of the family. (Welfare and Institutions Code Section [WIC] 300.2)
- 2) Declares the intent of the Legislature to, whenever possible preserve and strengthen a child's family ties and ensure that if the child is removed from their family, the state shall work to secure as nearly as possible for the child the custody, care, and discipline equivalent to that which should have been given to the child by their parents. Further, states the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive setting and as close to the child's family as possible, as specified. (WIC 16000)
- 3) Establishes the Dymally-Alatorre Bilingual Services Act to provide for effective communication between all levels of government in California and the people of the state who are prevented from utilizing public services due to language barriers. (Government Code 7290 *et seq*)

- 4) Requires the California Department of Social Services (CDSS), subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state. (*WIC 13300; 13301*)
- 5) Enumerates 41 separate rights of minors and nonminors in foster care, including but not limited to the right to: live in a safe, healthy, and comfortable home where they are treated with respect; be free from physical, sexual, emotional, or other abuse, corporal punishment, or exploitation; receive adequate and healthy food, clothing, and, age-appropriate allowance; be placed in the least restrictive setting possible; have a placement that utilizes trauma-informed and evidence-based deescalation and intervention techniques; receive medical, dental, vision, mental health and substance use disorder services, and reproductive and sexual health care; have a caregiver, child welfare and probation personnel, and legal counsel who have received instruction on cultural competency and sensitivity relating to sexual orientation, and gender identity and expression; attend religious services and activities of their choice; be involved in the development of their own case plan and plan for permanent placement; review their own case plan and plan for permanent placement, if they are 10 years of age or older, and receive information about their out-of-home placement and case plan, including being told of changes to the plan; and, be provided with contact information for the Ombudsperson, at the time of each placement, and be free from threats or punishment for making complaints. (*WIC 16001.9*)
- 6) Establishes the Office of the Foster Care Ombudsperson as an autonomous entity within CDSS for the purpose of providing children who are placed in foster care with a means to resolve issues related to their care, placement, or services. (*WIC 16161*)
- 7) Requires the Office of the Foster Care Ombudsperson to among other things, disseminate information and provide training and technical assistance to foster youth and relevant parties on the rights of children and youth in foster care, reasonable and prudent parent standards, and the services provided by the Office; investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services; and, have access to copies of any record of a state or local agency, and contractors with state and local agencies, that is necessary to carry out their responsibilities, and may meet or communicate with any foster child in their placement or elsewhere. (*WIC 16164*)
- 8) Establishes the case plan as the foundation and central unifying tool in the child welfare system and seeks to ensure that the child receive protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care. (*WIC 16501.1 et seq.*)

FISCAL EFFECT: Unknown

COMMENTS:

Child Welfare Services (CWS): The purpose of California's CWS system is to protect children from abuse and neglect and provide for their health and safety. When children are identified as being at risk of abuse, neglect or abandonment, county juvenile courts hold legal jurisdiction;

these children are served by the CWS system through the appointment of a social worker. Through this system, there are multiple opportunities for the custody of the child, or their placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child's social worker, to help provide the best possible services to the child. The CWS system seeks to help children who have been removed from their homes reunify with their parents or guardians, whenever appropriate. However, the court may determine that an alternate permanent placement is more fitting and give preference to relatives or nonrelative extended family members. As of October of 2021, there were 58,702 youth between the ages of 0 and 21 placed in California's CWS system. According to data collected by the Population Reference Bureau in 2018, there were 29,771 Hispanic/Latino, 1,195 Asian Pacific Islander, 12,866 Black, and 771 Native American foster youth in California.

Foster Youth Bill of Rights: AB 899 (Liu), Chapter 683, Statutes of 2001, adopted California's Foster Youth Bill of Rights and required: social workers and probation officers to periodically inform children of these rights in an age-appropriate manner; the Office of the State Foster Care Ombudsperson to, in consultation with stakeholders, develop and disseminate information on these rights; and any facility licensed to provide foster care for six or more children to post a listing of these rights.

The Foster Youth Bill of Rights has been amended to add and clarify rights over time, most recently with AB 175 (Gipson), Chapter 416, Statutes of 2020. The current list of rights for all minors and nonminors in foster care includes 41 enumerated rights, such as the right to receive adequate food, clothing, including the right to receive grooming and hygiene products regardless of sexual orientation and gender identity and expression; the right to an allowance to all youth regardless of placement type; and specifying that the allowance be age-appropriate.

Foster Care Ombudsperson: The Office of the Foster Care Ombudsperson was created to provide foster youth with an independent forum for review and resolution of concerns related to the care, placement, or services provided to children and youth in foster care. The Office of the Foster Care Ombudsperson is responsible for investigating and resolving complaints made by foster youth regarding their care and compiling data regarding contacts, investigations, and unresolved complaints. The Office of the Foster Care Ombudsperson is also responsible for disseminating information relating to the Foster Youth Bill of Rights and ensuring that children and youth in foster care know their rights. Additionally, the Office of the Foster Care Ombudsperson is responsible for reviewing amendments to laws applicable to foster youth at the end of every two-year legislative session and determining whether updates to the Foster Youth Bill of Rights should be recommended as a result of legislation passed during the previous legislative session.

Case plans: A case plan is considered the foundation and unifying tool that provides an overview of a child's needs and services. Current law requires that the written case plan be completed within a maximum of 60 days of the initial removal of the child, or by the date of the dispositional hearing, whichever is first. The case plan provides a centralized file that includes: a description of the type of home or institution in which the child is placed, the reasons for that placement decision, including specific goals and appropriateness of the planned services in meeting those goals, and the original allegations of abuse or neglect or the conditions cited as the basis for declaring the child a dependent of the court. Case plans also detail the services provided to the child and their parents, as well as any recommendations made by the child and the family team, in order to ensure the protection and safe and proper care of the child.

Currently, foster youth who are 12 years of age and older and in a permanent placement are given the opportunity to meaningfully participate in their case plan through reviewing, signing, and receiving a copy of their case plan.

Threshold languages: There are over 200 languages spoken in California. Over 40% of Californians over the age of 4 live in households where a language other than English is sometimes or always spoken. The Dymally-Alatorre Bilingual Services Act, enacted with the adoption of Chapter 1182, Statutes of 1973, states Legislative intent to “provide for effective communication between all levels of government in this state and the people of this state who are precluded from utilizing public services because of language barriers” (Government Code Section 7291). The Dymally-Alatorre Bilingual Services Act requires state agencies that are directly engaged in providing information and/or services to a “substantial number” of non-English-speaking individuals to take certain steps to ensure that information and services are provided in languages other than English.

Among other things, these state agencies must translate certain materials into any non-English language spoken by a substantial number of the public served by the agency. The Dymally-Alatorre Bilingual Services Act defines a “substantial number of non-English-speaking people” to mean members of a group “who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise five percent or more of the people served by the statewide or any local office or facility of a state agency” (Government Code Section 7296.2).

“Threshold languages” refers to the languages in which materials and information must be provided to meet the standards of the Dymally-Alatorre Bilingual Services Act or similar requirements.

Need for this bill: The provisions of this bill seek to ensure that all foster youth, regardless of their primary language, have access to and an understanding of their rights, case plan, court report, and TILP. Foster youth who are aware of their rights are more likely to recognize when their rights are violated and to pursue enforcement of their rights, as well as to actively participate in their case plans.

According to the author, “Of the over 60,000 children and nonminor dependents in California’s foster care system, over half are Black, Indigenous, Latinx, and Asian, and a percentage speak a primary language other than English. In Los Angeles alone, 120 of the 600 foster youth of Asian descent list a language other than English as their primary language. Yet, courts are not required to translate critical child welfare documents for these foster youth. As a result, many children and nonminor dependents are navigating our foster care system with limited understanding of their case plans, rights, and the goals set forth for them. In order for them to succeed and exit the system, these foster youth need language access tools to comprehend and actively participate in their cases.”

Staff comments: The goal of this bill is laudable and it is critical to all foster youth and their success to have a meaningful understanding of their rights and their related court documents and case plans. This bill would require that all foster youth have a right to have these vital documents translated into their primary language.

While the intent to provide this service to all foster youth is a worthy goal, the bill, as written, does not explain who would provide these translation services and if a social worker would be

required to provide these translation services for all languages, regardless of the availability of an authorized translator for that language. The bill also does not specify a timeline for these translations to occur nor whether the counties would be responsible for their portion of their related documents or whether CDSS would be required to satisfy these requirements, or a combination of both.

CDSS oversees the foster care program but it is administered at the county level which means that while the Office of the Foster Care Ombudsperson is responsible for disseminating the Foster Youth Bills of Rights, the counties are responsible for the development of the case plan and TILP as well as provision of the court report to foster youth.

Therefore, should this bill move forward, the author may wish to consider specifying a language threshold for translation; specifying which services will be the responsibility of CDSS and which will fall under the purview of the counties, and whether these documents can be made to be available digitally or are required to be printed copies.

Double referral: This bill will be referred to the Assembly Judiciary Committee should it pass out of this committee.

PRIOR AND RELATED LEGISLATION:

AB 829 (Levine), Chapter 528, Statutes of 2021, required a county to make best efforts to provide undocumented minors and nonminor dependents in foster care under the jurisdiction of the juvenile court with access to immigration legal services. Additionally required counties to submit reports to CDSS regarding the process of identifying and meeting the needs of undocumented youth in their county, as specified.

AB 317 (Patterson), Chapter 293, Statutes of 2021, clarified the role of the Foster Care Ombudsperson and allowed the Ombudsperson to notify the dependency counsel of a complaint; limiting investigations to those reasonably related to the complaint and to foster care; and, adding other lawful court orders to ways the Ombudsperson may access sealed records for the purpose of an investigation.

AB 1988 (Patterson), of 2020, would have required the Governor to appoint the Foster Care Ombudsperson, subject to confirmation by the Senate. AB 1988 was set to be heard in the Assembly Human Services Committee but the hearing was postponed by the committee.

AB 175 (Gipson), Chapter 417, Statutes of 2019, among other things, made changes to the Office of the Foster Care Ombudsperson's responsibilities including collection and sharing of data related to the complaints by or on behalf of children placed in foster care, including a requirement that the California Department of Education share education rights complaints with the Office of the Foster Care Ombudsperson; requiring the materials used to inform foster children and youth of their rights be those materials disseminated by the Office of the Foster Care Ombudsperson; and, requiring the Office of the Foster Care Ombudsperson to review amendments to laws applicable to foster youth at the end of every two-year legislative session and determine whether updates to the Foster Youth Bill of Rights should be recommended as a result of legislation passed during the previous legislative session.

AB 2119 (Gloria), Chapter 385, Statutes of 2018, clarified that a foster youth's right to be involved in the development of their own case plan and plan for permanent placement includes,

but is not limited to, the development of case plan elements related to placement and gender affirming health care, with consideration of gender identity.

AB 899 (Liu), Chapter 683, Statutes of 2001, adopted California's Foster Youth Bill of Rights and required: social workers and probation officers to periodically inform children of these rights in an age-appropriate manner; the Office of the State Foster Care Ombudsperson to, in consultation with stakeholders, develop and disseminate information on these rights; and any facility licensed to provide foster care for six or more children to post a listing of these rights.

REGISTERED SUPPORT / OPPOSITION:

Support

Law Foundation of Silicon Valley (Co-Sponsor)
Legal Services for Children (Co-Sponsor)
Alliance for Children's Rights
California Alliance of Caregivers
California Youth Connection (CYC)
Children's Law Center of California
Children's Legal Services of San Diego
Fasd Network of Southern California
Korean American Family Services, INC.
Public Counsel

Opposition

None on file

Analysis Prepared by: Jessica Langtry / HUM. S. / (916) 319-2089