

Date of Hearing: March 29, 2022

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 1735 (Bryan) – As Amended March 15, 2022

PROPOSED CONSENT

SUBJECT: FOSTER CARE: RIGHTS

KEY ISSUE: SHOULD IMPORTANT DOCUMENTS PROVIDED TO A CHILD IN FOSTER CARE BE PROVIDED IN THE CHILD’S PRIMARY LANGUAGE?

SYNOPSIS

There are over 50,000 children in California’s foster care system, all of whom are entitled to rights enumerated in the Foster Care Bill of Rights. These rights include the right to basic needs; the right to be free from discrimination based on race, ethnic group identification, ancestry and national origin; and the right to receive specified information and documents about their cases, including their case plans. Understanding these rights and meaningfully participating in their case plans are critical for helping children in foster care understand the decisions that affect them, navigate the foster care system, and plan for a successful future.

Despite the diversity of California and children in the foster care system, it appears that there is no specific requirement in the Welfare and Institutions Code to translate documents provided to foster children into their primary language. Though existing law requires state agencies to translate materials if at least five percent of their service population does not speak English, this requirement excludes potentially hundreds of children in foster care from receiving these important documents in a language they understand.

This bill establishes new rights for children in foster care to receive the Foster Care Bill of Rights in their primary languages. It also requires that, when a child in foster care receives a copy of their court report, case plan, and transition to independent living plan (TILP), those items must be provided in the child’s primary language. AB 1735 is sponsored by the Children’s Law Center of California, Children’s Legal Services of San Diego, Law Foundation of Silicon Valley, and Legal Services for Children and supported by a number of other child welfare organizations. It has no opposition on file.

SUMMARY: Requires that specified documents provided to children in foster care be provided in the child’s primary language. Specifically, **this bill:**

- 1) Adds a new right to the Foster Care Bill of Rights specifying that a child who speaks a primary language other than English has the right to receive a copy of the Foster Care Bill of Rights in their primary language.
- 2) Adds a new right to the Foster Care Bill of Rights specifying that, when a child is entitled to receive a copy of their court report, case plan, and Transition to Independent Living Plan (TILP), those items must be provided in the child’s primary language.

- 3) Mandates that, when a child receives a copy of the case plan and speaks a primary language other than English, the case plan be translated and provided to the child in their primary language.
- 4) Mandates that, for a child who speaks a primary language other than English, that child's TILP be translated into their primary language.

EXISTING LAW:

- 1) Enumerates rights to which all children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court, are entitled. These rights include, but are not limited to, the right to:
 - a) Live in a safe, healthy, and comfortable home where they are treated with respect;
 - b) Receive adequate and healthy food, adequate clothing, and, for youth in group homes, an age-appropriate allowance;
 - c) Receive clothing and grooming and hygiene products that respect the child's culture, ethnicity, and gender identity and expression;
 - d) Be placed in the least restrictive setting possible;
 - e) Be provided the names and contact information for social workers, probation officers, and other specified advocates, and provides the right to communicate with these individuals privately;
 - f) Participate in specified extracurricular, cultural, racial, ethnic, personal enrichment, and social activities;
 - g) Have fair and equal access to all available services, placement, care, treatment, and benefits. Provides the right to not be subjected to discrimination or harassment on the basis of race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, or HIV status;
 - h) Have child welfare and probation personnel and legal counsel who have received instruction on the federal Indian Child Welfare Act of 1978 and on cultural competency and sensitivity relating to providing adequate care to Indian children in out-of-home care;
 - i) Have recognition of their affiliation with an Indian tribe or Alaskan village. Provides the right to receive assistance in becoming a member of an Indian tribe or Alaskan village in which the child is eligible for membership or citizenship. Provides the right to be free from discrimination based on the child's political affiliation with an Indian tribe or Alaskan village;
 - j) View and receive a copy of their medical records at no cost;
 - k) Have access to existing information regarding the educational options available;
 - l) Attend Independent Living Program classes and activities;
 - m) For children 14 to 17 years of age, to receive a consumer credit report. Provides the right to assistance with resolving any inaccuracies;
 - n) Be represented by an attorney in juvenile court;

- o) Request a hearing if the child feels their appointed counsel is not acting in their best interest or adequately representing their legal interests;
 - p) Receive a notice of court hearings, to attend court hearings, to speak to the judge, to view and receive a copy of the court file, and to object to or request the presence of interested persons during court hearings;
 - q) Be involved in the development of their own case plan, including placement decisions, and plan for permanency;
 - r) Review their own case plan and plan for permanent placement if they are 10 years of age or older;
 - s) Receive information about their out-of-home placement and case plan, including being told of changes to the plan;
 - t) View and receive a copy of their child welfare records, juvenile court records, and educational records at no cost until 26 years of age; and
 - u) Be informed of these rights. Provides the right to be provided a copy of their rights at the time of placement, any placement change, and at least once every six months or at the time of a regularly scheduled contact with the social worker or probation officer. (Welfare and Institutions Code Section 16001.9 All further statutory references are to this code, unless otherwise indicated.)
- 2) 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. (Section 16501.1 *et seq.*)
- 3) Requires the creation of a case plan for foster youth within a specified timeframe after the child is introduced into the foster care system. (Section 16501.1 (e).)
- 4) Mandates that, at least once every six months, at the time of a regularly scheduled visit with the youth, and at each placement change, a social worker or probation officer shall inform the youth, the caregiver, and the child and family team, of the youth's rights, provide a written copy of the rights to the youth in an age and developmentally appropriate manner, and document in the case plan that the youth has been informed of the rights and been provided with a written copy of their rights. (Section 16501.1 (g)(4).)
- 5) Requires the case plan to include, for children who are 14 years of age or older and for nonminor dependents, a document describing the youth's rights with respect to education, health, visitation, and court participation; the right to be annually provided with copies of their credit reports at no cost while in foster care; and the right to stay safe and avoid exploitation. Requires the case plan to include a signed acknowledgement by the youth that they have been provided a copy of these rights and that the rights have been explained to them in an age-appropriate manner. (Section 16501.1 (g)(18).)
- 6) Requires a child who is 12 years of age or older and in permanent placement to be given a meaningful opportunity to review their case plan, sign the plan, and receive a copy of the plan. (Section 16501.1 (g)(13).)

- 7) Requires the case plan to include, for a child who is 14 or 15 years old, a written description of the programs and services that will help the child, consistent with the child's best interests, to prepare for the transition from foster care to successful adulthood. (Section 16501.1 (g)(16)(A)(i).)
- 8) Requires the case plan to include, for children who are 16 years or older and nonminor dependents, the TILP, a description of programs and services that will help the child prepare for the transition from foster care to successful adulthood, and whether the youth has an in-progress application pending for Supplemental Security Income benefits or for special immigrant juvenile status or other applicable application for legal residency. (Section 16501.1 (g)(16)(A)(ii).)
- 9) 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 Section 7290 *et seq.*)
- 10) Requires every state agency, except the State Compensation Insurance Fund, directly involved in furnishing information or rendering services to the public whereby contact is made with a substantial number of non-English-speaking people to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public in the language of the non-English-speaking person. (Government Code Section 7292 (a).)
- 11) Requires any materials explaining services available to the public, and notices regarding those materials, to be translated into any non-English language spoken by a substantial number of the public served by the agency. Provides discretion to the local agency to determine when these materials are necessary. (Government Code Section 7295.)
- 12) Requires every state agency which serves a substantial number of non-English-speaking people and which provides materials in English explaining services provide the same type of materials, and notices regarding those materials, in any non-English language spoken by a substantial number of the public served by the agency. Provides that this section shall not be interpreted to require verbatim translations of any materials provided in English by a state agency. (Government Code Section 7295.2.)
- 13) Defines "substantial number of non-English-speaking people" to mean members of a group who are unable to effectively communicate in English and who make up five percent or more of the people served by the jurisdiction or entity in question, as specified. (Government Code Sections 7296.2.)
- 14) Provides that the provisions of the Dymally-Alatorre Bilingual Services Act shall be implemented to the extent that local, state, or federal funds are available. (Government Code Section 7299.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill mandates that, when a child in foster care receives a copy of the Foster Care Bill of Rights, court reports, their case plan, and transition to independent living plan, these

documents must be provided in the child's primary language. The author states, regarding the purpose and necessity of the bill, the following:

Of the over [60,000 children](#) and non-minor 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 non-minor dependents are navigating our foster care system with limited understanding of their case plans, rights, and the goals set forth for them. AB 1735 will provide foster youth with the language access tools that they need to comprehend and actively participate in their cases and successfully exit the system.

Foster Care Bill of Rights and Case Plans. Currently, there are over 50,000 children in California's foster care system. The Foster Care Bill of Rights enumerates many of the rights to which these children are entitled (Welfare and Institutions Code Section 16001.9 *et seq.*). Consolidated and codified in 2001 (AB 899 (Liu), Chap. 683, Stats. 2001) and amended several times since then, these rights include the right to basic needs, such as adequate and healthy food and clothing and medical, dental, vision, and mental health services. They also include protections that reflect the demographic diversity of children in foster care, including the right to seek gender-affirming health care and the right to "not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status." (Welfare and Institutions Code Section 16001.9 (a)(17).) Within the Bill of Rights are sets of rights to ensure foster children are well-informed about their cases. Foster children have the right to an attorney in juvenile court, the right to receive a notice of court hearings, attend court hearings, to speak to the judge, and to view and receive a copy of the court file. They also have the right to receive a copy of their rights and to be involved in the development of their own case plans.

A case plan is developed to ensure youth receive necessary services. It is often considered the foundation and unifying tool in which a child's needs and services are documented in one location. Case plans provide critical, specified information about the child's case including, but not limited to, the type of home or institution in which a child is placed, the reasons for that placement decision, the specific goals of services provided to the child, and an evaluation of the appropriateness of the planned services. Case plans also contain information critical for a child to plan for their future. Current law provides that for a child who is 14 or 15 years of age, the case plan should include a description of programs and services that will help the child prepare to transition out of foster care. For a child who is at least 16 years of age, the case plan must include the TILP, a written description of the programs and services that will help them prepare for the transition from foster care to successful adulthood.

The Rights of Foster Children to Receive Important Information and Documents. Existing law provides that children placed in foster care are entitled to receive specified information and documents pertaining to their case, and that they shall be consulted under specified conditions. This includes:

1. The right to be informed about their rights and receive a copy of the Foster Care Bill of Rights at the time of placement, any placement change, and at least once every six

months or at the time of regularly scheduled contact with a social worker or probation officer. (Section 16001.9 (a)(40).)

2. The right to view and receive a copy of the court file, subject to existing federal and state confidentiality laws (*Id.* at (34).)
3. The right to view and receive a copy of their child welfare records, juvenile court records, and educational records at no cost until the child is 26 years of age, subject to existing federal and state confidentiality laws. (*Id.* at (36).)
4. The right to review their own case plan and plan for permanent placement if the child is 10 years of age or older, and to receive information about their out-of-home placement and case plan, including being told of changes to the plan. (*Id.* at (38).)
5. For youth 14 years of age or older, case plan must be developed “in consultation” with the youth. (Welfare and Institutions Code Section 16501.1 (g) 17).
6. For youth 14 years of age or older, the case plan shall include a document that describes specified rights and a signed acknowledgement by the youth that they were provided a copy of the rights and that the rights have been explained to them. (*Id.* at 18.)

Understanding their rights and participating in the case plan is essential for empowering children in foster care and helping them understand decisions that affect them, navigate the foster care system, and plan for a successful future. A case study of foster children in Los Angeles revealed that, when foster care children’s rights were violated, awareness of their rights “critically informed their actions and revealed their awareness of the power dynamics within the system.” (Hernandez, *Foster Youth Perspectives: How Foster Youth Navigate and Mobilize Their Rights within the Foster Care System* (Feb. 2021) Humanity & Society.) Awareness of their rights and their case plan also helps children as they age out of foster care. According to the sponsors, Children’s Law Center and other advocacy groups, research has demonstrated that children who actively participate in their case plans are more likely to successfully transition from foster care to adulthood.

The Need for Translation. There does not appear to be reliable data on the languages spoken by children in foster care in California. Estimates provided by the author from the California Child Welfare Indicators Project at the University of California at Berkeley suggest that about 12 percent of children with open child welfare cases in California speak a primary language other than English. Despite this diversity, it appears that there is no requirement in the Welfare and Institutions Code to provide information and documents to foster children in their primary language.

Elsewhere in California law, state agencies are required to translate materials in order to adequately serve non-English speaking populations. Most applicable to children in foster care is the Dymally-Alatorre Bilingual Services Act, which 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. (Government Code Section 7292.) Among other requirements, 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 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.)

Though it appears this act applies to documents provided by the Department of Social Services, including the documents that are subject of this bill, the Department of Social Services has not confirmed to the Committee whether or not they are in fact in compliance with the act. If the Act does, in fact, mandate that documents provided by the state to children in foster care should be translated, it comes up short in several respects. First, by limiting to five percent of the service population, the Act omits individuals belonging to smaller minority communities. Based on the data provided by the author, only two groups of children with open welfare cases would meet the five percent threshold: the 88.36 percent of children who speak English as their primary language, and the 10.8 percent who speak Spanish as their primary language. If materials were translated only into English and Spanish, 99.16 percent of children would receive materials in their primary language. The remaining .84 percent of children amounts to hundreds of children who would not be entitled to receive important documents about their rights and their cases, including children whose primary language is Mandarin, Cantonese, Arabic, and Armenian, among other languages. Second, it appears that, in practice, documents are rarely translated. According to the sponsor Children's Law Center of California, who serves children in foster care in Los Angeles, Sacramento, and Placerville Counties, between one-third and one half of their clients do not speak English. The sponsor reported that they have never seen a written case plan in a language other than English.

This bill establishes the rights of children in foster care to receive important documents to which they are entitled in their primary languages. Children in foster care, especially those facing language barriers, face a vast array of challenges while navigating a complex system. Critical to the protection of their rights is knowledge of their rights and information contained in their court reports, case plans, and transition to independent living plans. By requiring that children in foster care receive documents to which they are entitled in their primary language, this bill furthers the goal of having all children in foster care, regardless of their background, understand their rights and receive information essential to their well-being.

ARGUMENTS IN SUPPORT: In support of this bill, the Children's Law Center describes the gaps in existing law and the necessity of this bill to support foster youth whose primary language is not English:

Studies have shown that youth who take an active role in their case plans and other decision-making factors that affect their life are more likely to successfully transition from foster care to adulthood. Current law states that foster youth are entitled to receive copies of their case plan, transitional independent living plan (TILP), and the foster youth bill of rights in order to participate in their case and influence the decisions and goals set forth for them. However, there is no legal requirement that these critical child welfare documents be translated for a youth who speaks a primary language other than English. As a result, foster youth who are non-native English speakers are not always able to contribute meaningfully to their case. They lack language access resources to fully comprehend the documents, services, and rights provided to them. Without translated materials, these youth face an additional barrier to exiting the foster care system and leading stable, independent lives.

AB 1735 is needed to empower foster youth whose primary language is not English to take agency in the decisions that impact their life and to utilize the resources and services available to help them achieve success.

Related legislation. AB 1838 (Bauer-Kahan, 2022) would revise the criteria for determining when school materials provided to parents or guardians must be provided in a language other than English.

AB 401 (Chiu, 2021) would have required the Employment Development Department to print pamphlets about unemployment and disability programs in English and any written language that is, or becomes, a Medi-Cal threshold language in any county. The bill also would have established requirements related to translating documents to a claimant and the translation of online materials provided by Employment Development Department.

AB 229 (Nazarian, 2019) would have clarified that the State Department of Social Services is required to provide translations of written content, video transcriptions, and video captioning in languages spoken by a substantial number of providers of in-home supportive services in California.

SB 82 (Correa), Chap. 23, Stats. 2015, required regional centers under the Lanterman Developmental Disabilities Services Act to report data on the number of instances they provide documentation in a different language at the request of individuals.

SB 555 (Correa), Chap. 685, Stats. 2013, required, among other things, that regional centers under the Lanterman Developmental Disabilities Services Act communicate and provide translated materials in a family's native language in regard to services for individuals with developmental disabilities.

SB 625 (Beall, 2013) would have prohibited the Department of Social Services and each county department, and its vendors, from denying services to parents or children on the basis of the client's language, and from discriminating against clients on the basis of race, color, or national origin in providing services to the client. It would have required that care for children in the county welfare department's custody be linguistically and culturally equivalent to the care provided by the children's parent. It also would have established specified processes for addressing racial and ethnic inequities and cultural competency in the provision of its services.

REGISTERED SUPPORT / OPPOSITION:

Support

Children's Law Center of California (co-sponsor)
Children's Legal Services of San Diego (co-sponsor)
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)
FASD Network of Southern California
John Burton Advocates for Youth
Juvenile Court Judges of California.
Korean American Family Services, Inc.
Public Counsel

Opposition

None on file

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