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## SENATE COMMITTEE ON HUMAN SERVICES

Senator Hurtado, Chair

2021 - 2022 Regular

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**Bill No:** AB 1735

**Author:** Bryan

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**Urgency:** No

**Consultant:** Marisa Shea

**Hearing Date:** June 20, 2022

**Fiscal:** Yes

**Subject:** Foster care: rights.

### SUMMARY

This bill requires, for foster children and youth, the child's case plan, transitional independent living plan (TILP), and court report be provided to the child in their primary language. Additionally, this bill adds the right to have these documents in their primary language to the Foster Youth Bill of Rights and requires the Foster Youth Bill of Rights be provided to the child in the primary language, as provided.

### ABSTRACT

#### 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) Declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of his or her parents, to give preferential consideration to placement with relatives. 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 family setting and as close to the child's family as possible, as specified. Further states the intent of the Legislature that all children live with a committed, permanent, nurturing family, and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (*WIC 16000*)

- 4) Requires out-of-home placement of a child in foster care to be based upon selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences, and the most appropriate setting that meets the child's individual needs, as specified. Further requires the selection of placement to consider, in order of priority, placement with: relatives, nonrelative extended family members, and tribal members; foster family homes, resource families, and approved or certified homes of foster family agencies; followed by intensive services for foster care homes, multidimensional treatment foster care homes, or therapeutic foster care homes; group care placements in the order of short-term residential therapeutic programs, group homes, community treatment facilities, and out-of-state residential treatment, as specified. (*WIC 16501.1(d)(1)*)
- 5) 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 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 their rights and has been provided with a written copy of their rights. (*WIC 16501.1(g)(4)*)
- 6) 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 de-escalation 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*)
- 7) Establishes the Office of the Foster Care Ombudsperson (OFCO) as an autonomous entity within California Department of Social Services (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*)
- 8) Requires the OFCO 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*)

- 9) Establishes the case plan as the foundation and central unifying tool in the child welfare system, and seeks to ensure that the child receives 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.*)
- 10) Requires the creation of a case plan for foster youth within a specified timeframe after the child is introduced into the foster care system. (*WIC 16501.1(e)*)
- 11) Requires a child who is 12 years of age or older and in permanent placement be given a meaningful opportunity to review their case plan, sign the plan, and receive a copy of the plan. (*WIC 16501.1(g)(13)*)
- 12) Requires the case plan to include, for children who are 16 years or older and nonminor dependents, the Transition to Independent Living Plan (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, for special immigrant juvenile status, or other application for legal residency. (*WIC 16501.1(g)(16)(A)(ii)*)
- 13) Requires a regional center to communicate and provide written materials in the family's native language during the assessment, evaluation, and planning process for the individualized family service plan (IFSP). (*GOV 95020(g)*)
- 14) Requires a regional center to communicate with the consumer and their family in their native language, including providing alternative communication services, as provided. (*WIC 4643(d)*)
- 15) Requires a regional center to communicate in the consumer's native language, or, when appropriate, the native language of their family, during the planning process for the individual program plan (IPP), and provide a copy of the IPP in the native language of the consumer and their family, as provided. (*WIC 4646(j)*)
- 16) Requires any materials explaining services be 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. (*GOV 7295*)

**This Bill:**

- 1) Adds the following to the Foster Youth Bill of Rights:

- a) For a child who speaks a primary language other than English, the right to be provided a copy of the Foster Youth Bill of Rights in the child's primary language;
  - b) The right to be provided a copy of the court report, case plan, and TILP in the child's primary language, when a child is entitled to receive a copy of those documents.
- 2) Requires, for a child who receives a copy of their case plan and who speaks a primary language other than English, that the case plan be translated and provided to the child in their primary language.
  - 3) Requires, for a child who speaks a primary language other than English, that the child's TILP be translated into their primary language.

### **FISCAL IMPACT**

According to an analysis prepared by the Assembly Committee on Appropriations, this bill will likely have the following fiscal impact:

- Estimated one-time costs of \$100,000 (General Fund (GF)) to the OFCO within CDSS, for contracts to provide content and graphic design (for age appropriateness) and to translate the Foster Care Bill of Rights into 14 to 20 additional languages. This cost includes updating the Foster Care Bill of Rights in English and Spanish with the new rights provided in this bill.
- Estimated one-time costs of \$500,000 (GF), to the Ombudsperson for printing and distributing the updated Foster Care Bill of Rights in all required languages.
- Estimated ongoing state GF costs in the low hundreds of thousands of dollars annually, for county social worker time to arrange for translation of case plans, TILPs and court reports. Counties primarily contract for translation services, although some larger counties have in-house translators for some languages. Data indicate about 12 percent of children with open child welfare cases in California speak a primary language other than English. For illustration, if half of these youth are aged 12 years or older and, thus, would require translation of their documents, and assuming a social worker spends 15 minutes arranging translation services for each case, county costs would be about \$100,000 annually state-wide. This estimate assumes the percentage of children requiring translations remains constant, and translations occur once a year per case and are done under existing county contracts. Actual costs could vary substantially, depending on those factors.

Although these county costs are mandated by state, they are not reimbursable, but instead must be paid by the state pursuant to Proposition 30 of 2012. Proposition 30 provides that legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment (including child welfare services and foster care), only applies to local agencies to the extent that the state provides annual funding for the cost increase.

(The author is also pursuing this proposal in the Legislative budget process.)

## BACKGROUND AND DISCUSSION

### **Purpose of the Bill:**

According to the author, “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.”

### *Child Welfare Services (CWS) System*

The CWS system is an essential component of the state’s safety net. Social workers in each county receive reports of abuse or neglect, and work to investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child’s well-being and avoid court involvement, or a child is removed from the family and placed into foster care. This system seeks to ensure the safety and protection of these 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 2021, the state’s child welfare agencies received 400,313 reports of abuse or neglect. Of these, 61,438 reports contained allegations that were substantiated and 22,004 children were removed from their homes and placed into foster care via the CWS system.

As of January 1, 2022, there were 59,539 children in California’s CWS system.

### *Office of the Foster Care Ombudsperson*

The OFCO was established as an autonomous entity within CDSS to provide children placed in foster care 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. As such, the OFCO investigates, and seeks to resolve complaints regarding foster care, including complaints against state and local agencies. Additionally, the OFCO is responsible for compiling data on the complaints they receive to share with the Legislature and other relevant stakeholders, so that this data may be considered in the development of recommendations regarding the improvement of the child welfare system. The OFCO 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, as a result of AB 175 (*Gipson, Chapter 416, Statutes of 2019*), the OFCO is required to review amendments to the laws applicable to foster youth at the end of each two-year legislative session, and to determine whether changes to the Foster Youth Bill of Rights should be recommended based on that review.

Several changes were made to the OFCO as of January 1, 2022, as the result of recent legislation. AB 1140 (R. Rivas, Chapter 297, Statutes of 2021) specified that OFCO is also responsible to provide ombudsman services to children placed in residential facilities and homes by the Office of Refugee Resettlement of the federal Department of Health and Human Services. AB 317 (*Patterson, Chapter 293, Statutes of 2021*) strengthened the role of the OFCO by clarifying their independence from CDSS and their investigation authority. In regards to the OFCO's investigation authority, AB 317 provided that the OFCO has the authority to: enter and inspect premises, as specified; review and copy licensing and administrative records, policies, and documents; interview witness; observe proceedings and attend hearings; formally resolve complaints; submit written correction plans to contractors with the state or local agencies; among other things. AB 317 also specified that the OFCO has the right to notify the child's dependency counsel of a complaint filed by the child or youth, as well as the outcome of any investigation performed by the OFCO in regards to that complaint, as provided.

This bill does not make changes to the role or responsibilities of the OFCO, but it does make two changes to the Foster Youth Bill of Rights. Since the OFCO is responsible for updating the Foster Youth Bill of Rights and for producing materials related to those rights, this bill would likely have impacts on the OFCO through that workload.

#### *Foster Youth Bill of Rights*

In 2001, AB 899 (*Lui, Chapter 683, Statutes 2001*) consolidated and codified in statute all of the rights existing law provided at the time to foster youth and created the Foster Youth Bill of Rights. AB 899 also required foster care providers and group home operators to provide foster youth with an age and developmentally appropriate orientation to the foster care system that includes an explanation of their rights and provides answers to the youths' questions or concerns. Over time, additional rights have been given to foster youth and added to the Foster Youth Bill of Rights. Most recently, AB 2119 (*Gloria, Chapter 385, Statutes 2018*) clarified a foster youth's right to gender affirming care, gender affirming behavior health services, and case plans that consider their gender identity, and incorporated these rights into the Foster Youth Bill of Rights.

In 2016, AB 1067 (*Gipson, Chapter 851, Statutes 2016*) required CDSS to convene a working group of stakeholders from around the state, to be chaired by the OFCO and include representatives the Bureau of Children's Justice, the County Welfare Directors Association, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, current and former foster youth, foster parents and caregivers, foster children advocacy groups, foster care providers associations, and other interested parties, to update and improve the Foster Youth Bill of Rights. OFCO held stakeholder meetings and conducted a series of youth focus groups to inform and respond to the work of the working group on this issue, and ultimately the working group submitted a report containing recommendations to the Legislature.

AB 175 (*Gipson, Chapter 416, Statutes of 2019*) subsequently revised, recast, and expanded the Foster Youth Bill of Rights based on the working group's recommendations. AB 175 clarified that all children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court, have their rights delineated in the Foster Youth Bill of Rights. Additionally, it provided that these rights also apply to nonminor dependents except in circumstances when they conflict with nonminor dependents' retention of their legal decision-

making authority as an adult. The current list of rights for all minors and nonminors in foster care includes 41 enumerated rights, such as the right to live in a safe, healthy, and comfortable home where they are treated with respect; be free from any abuse, including physical, sexual, emotional, or corporal punishment; receive adequate and healthy food, clothing; receive medical, dental, vision, mental health services, and substance use disorder services; and to be involved in the development of their own case plan.

This bill adds the right to receive a copy of the court report, case plan, and TILP, when the child is entitled to receive those documents, in the child's primary language. The bill would also require the Foster Youth Bill of Rights be made available and provided in languages besides English to children whose primary languages are not English.

#### *Documentation of Services Provided to Foster Youth*

Foster youth are entitled to certain services and supports while they remain in care, along with certain goals for the child, such as reunification with their biological parents or other plans for permanency. These provided services and goals for the child are documented through a variety of means, including the child's case plan and court reports submitted to the Dependency Court by the county's social worker during the child's six month review or other hearings. Additionally, if the child is 16 or older, a TILP may also be used for case planning that specifically relates to the youth's transition to independent living as they move towards either emancipating from the CWS system or participating in extended foster care.

Case Plans: Federal law requires the development of a written case plan for any child for which the state receives funding related to title IV-E foster care. These case plans must:

- Be a written document that is developed jointly with the parents or guardian of the child in foster care;
- Be developed within a responsible period of time, but no later than 60 days from the child's removal from the home;
- Include a discussion of how the case plan is designed to achieve a safe placement for the child in the least restrictive, most family-like setting available and in close proximity to the home of the parents when the case plan goal is reunification;
- Include a discussion of how the placement is consistent with the best interests and special needs of the child;
- Include a description of the services offered and provided to prevent removal of the child from the home and to reunify the family; and
- Document the steps to finalize a placement when the case plan goal is or becomes adoption or placement in another permanent home.

Court Reports: Dependency Courts receive court reports from the child or youth's social worker detailing the status of the child's journey through the CWS system. At every dependency hearing, including every six month review hearing, the social worker submits a report to the court making the county's case for the issues at hand. In the beginning, this report would document the abuse or neglect occurring and make the case for the child's removal. As things progress to review hearings, the court report provides the Dependency Judge and other parties to the case with an update regarding the services provided to the child or youth, their living arrangement, and ongoing plan for achieving permanency. If a child or youth has a Court

Appointed Special Advocate (CASA), then the CASA also submits a report to the court documenting the child or youth's state of wellbeing and ongoing needs. Counties are required to document how they are meeting certain statutory requirements, such as providing youth of a certain age with their social security card, birth certificate or other documents, age appropriate sexual health education, counseling on eligibility for other safety net services, among other things, through the court report. Court reports are confidential and only available to certain parties provided access to a foster child or youth's case file. This includes the child or youth's counsel and, for children of a certain age, the child or youth.

TILPs: A TILP is both a plan and an agreement a foster youth creates with their social worker. Beginning at age 16, a foster youth may create a TILP with their social worker to help them capture specific goals for the next six months related to the youth's successful transition to independence. The goals contained in a TILP focus on preparing the youth for this transition, and may include things like developing life-long connections to a supportive adults, graduating from high school, obtaining employment, applying to higher education, gaining experience in certain life skills like cooking or financial literacy. The plan also includes activities that the youth is supposed to engage with, with assistance from their social worker and caregiver, to help them meet their specific goals. A TILP is supposed to be youth specific, defining small goals that in turn help the youth reach their bigger goals. It is also supposed to be youth lead, with the youth determining what they want for their future and receiving help and guidance in how to achieve that future. Because young people's goals, needs, and desires change frequently as they begin this period of transition, a TILP must be updated every six months, but a youth may choose to update it more frequently. A TILP is an agreement because it is signed by the youth, their caregiver, and their social worker, which commits each party to working to complete the steps necessary to help the youth reach their goals.

This bill would require each of these documents be provided to the youth in their primary language. It does not change which youth have access to these documents, but rather requires for youth who have an existing right to these documents, the documents to be provided in a manner that will allow for the youth to actually read, review, and engage with the important information these documents contain.

#### **Related/Prior Legislation:**

**AB 1140 (R. Rivas, Chapter 297, Statutes of 2021)** specifies that the duties of the CDSS and the OFCO include children who are in state-licensed foster facilities and homes in the custody of the Office of Refugee Resettlement of the federal Department of Health and Human Services.

**AB 317 (Patterson, Chapter 293, Statutes of 2021)** requires the Secretary of the California Health and Human Services Agency, instead of the Director of the CDSS as required by current law, to appoint the Foster Care Ombudsperson, as provided. Further requires the Ombudsperson to be independent of, and not directly or indirectly controlled, supervised or directed by the CDSS director. This bill is waiting to be heard by this committee.

**AB 1988 (Patterson, 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 due to COVID-19 restrictions.



**AB 175 (Gipson, Chapter 417, Statutes of 2019)** among other things, made changes to OFCO'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; requiring the materials used to inform foster children and youth of their rights be those materials disseminated by the Office; and, requiring the Office 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 1067 (Gipson, Chapter 851, Statutes of 2016)** required CDSS to convene a working group to update the Foster Youth Bill of Rights, develop standardized information about the rights of all minors and nonminors in foster care, and expanded requirements regarding the distribution of information regarding these rights.

**AB 555 (Correa, Chapter 685, Statutes of 2013)** required Regional Centers to communicate with individuals and their families in their native language during the IFSP and IPP planning process, as well as provide copies of the IFSP and IPP to the individual and their family in their native language, as provided.

**AB 899 (Liu, Chapter 683, Statutes of 2001)** adopted California's Foster Youth Bill of Rights.

## COMMENTS

This bill seeks to give foster children and youth access to important documents in their primary language. Existing law provides that foster children and youth must be provided with information regarding the Foster Youth Bill of Rights and, for youth of certain ages, with copies of their case plan, court report, and TILP. However, if the youth cannot read these documents because they are provided in a language besides the youth's primary language, it is unclear how the youth is expected to know about the important information these documents contain. Additionally, in the case of TILP, it is unclear how a youth is supposed to sign and agree to complete the steps outlined in the TILP when the TILP is only provided in a language outside of the youth's primary language.

In other social services systems, important service plan documents are required to be provided according to certain native language requirements. For example, in the Developmental Disabilities Services system, since 2014, individuals with developmental disabilities and their families who are served by Regional Centers are required to receive copies of the Individualized Family Service Plan (IFSP) and Individual Program Plan in the individual's or their family's native language. Additionally, existing law requires the Regional Center to also communicate with the family and individual during those planning processes in their native language. This process recognizes that if these important case plan like documents are not provided in a language that is accessible to the family or the individual, then the information and agreements they contain are not accessible to the family or individual served. This bill seeks grant similar language access rights to foster youth.

**PRIOR VOTES**

Assembly Floor:	69 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Human Services Committee:	8 - 0

**POSITIONS**

**Support:**

Children's Law Center of California (Sponsor)  
Alliance for Children's Rights  
California Alliance of Caregivers  
California Alliance of Child and Family Services  
California Teachers Association  
California Youth Connection  
John Burton Advocates for Youth  
National Association of Social Workers, California Chapter  
Public Counsel

**Oppose:**

None received

**-- END --**