

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 1735 (Bryan)
Version: March 15, 2022
Hearing Date: June 21, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Foster care: rights

DIGEST

This bill adds to the rights guaranteed to minors and nonminors in foster care by requiring that certain documents be provided to the foster child or youth in their primary language, when their primary language is a language other than English.

EXECUTIVE SUMMARY

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's children in the foster care system, there is no specific requirement in the Welfare and Institutions Code that documents provided to foster children and nonminor dependents be provided to foster children into their primary language, where that language is not English. 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 commonsense bill establishes new rights for children in foster care to receive the Foster Care Bill of Rights in their primary language. It also requires a foster child or nonminor dependent to receive a copy of their court report, case plan, and transition to independent living plan in their primary language.

This bill is sponsored by the Children's Law Center of California and is supported by the Alliance for Children's Rights, the California Alliance of Caregivers, the California Alliance of Child and Family Services, the California Teachers Association, the California Youth Connection, John Burton Advocates for Youth, the National Association of Social Workers – California Chapter, and Public Counsel. There is no known opposition. This bill passed out of the Senate Human Services Committee with a 4-0 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Foster Care Bill of Rights, which provides that all children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court, and all nonminor dependents have certain enumerated rights which include, but are not limited 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) Visit and contact siblings, family members, and relatives privately and send and receive open mail, except where prohibited by court order.
 - g) Participate in specified extracurricular, cultural, racial, ethnic, personal enrichment, and social activities.
 - h) Have fair and equal access to all available services, placement, care, treatment, and benefits, including not being 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.
 - i) Have child welfare and probation personnel and legal counsel who have received instruction on the federal Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901 et seq.) and on cultural competency and sensitivity relating to providing adequate care to Indian children in out-of-home care.
 - j) 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.

- k) View and receive a copy of their medical records at no cost.
 - l) Have access to existing information regarding the educational options available.
 - m) Attend Independent Living Program classes and activities.
 - n) For children 14 to 17 years of age, to receive a consumer credit report and be given assistance with resolving any inaccuracies.
 - o) Be represented by an attorney in juvenile court.
 - p) Request a hearing if the child feels their appointed counsel is not acting in their best interest or adequately representing their legal interests.
 - q) 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.
 - r) Be involved in the development of their own case plan, including placement decisions, and plan for permanency.
 - s) Review their own case plan and plan for permanent placement if they are 10 years of age or older.
 - t) Receive information about their out-of-home placement and case plan, including being told of changes to the plan.
 - u) View and receive a copy of their child welfare records, juvenile court records, and educational records at no cost until 26 years of age.
 - v) 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. (Welf. & Inst. Code, § 16001.9(a).)
- 2) For nonminor dependents within the foster system, the rights in 1) do not apply where they conflict with the nonminor dependent's ability to retain their legal decisionmaking authority as an adult. (Welf. & Inst. Code, § 16001.9(a).)
- 3) Provides that the foundation and central unifying tool in child welfare services is the case plan, which contains a range of information relating to preplacement efforts, recommendations of the child and the child's family team, the type of placement and the reasons for that placement decision, and specific goals and the appropriateness of planned services in meeting those goals. (Welf. & Inst. Code, § 16501.1.)
- 4) Requires the case plan to be created within specified timeframes and updated no less frequently than once every six months. (Welf. & Inst. Code, § 16501.1(e).)
- 5) Requires, at least once every six months at the time of a regularly scheduled placement contact with the foster child and at each placement change, the child's social worker or probation officer to inform the child, care provider, and the child and family team of the child's rights as a foster child and to provide a written copy of the rights to the child as part of the explanation; the provision of the information

must be documented in the case plan. The information must be provided in a manner appropriate to the age or developmental level of the child. (Welf. & Inst. Code, § 16501.1(g)(4).)

- 6) For foster youth 12 years of age or older and in a permanent placement, requires the child to be given a meaningful opportunity to review their case plan, sign the plan, and receive a copy of the plan. (Welf. & Inst. Code, § 16501.1(g)(13).
- 7) For foster youth 16 years of age or older and nonminor dependents, requires the case plan to include the transition to independent living plan (TILP), 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. (Welf. & Inst. Code, § 16501.1(g)(16)(A)(ii).)
- 8) For foster youth 14 years of age or older and nonminor dependents, requires the case plan to include a document that describes 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. The case plan must 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. (Welf. & Inst. Code, § 16501.1(g)(18).)
- 9) Establishes the Dymally-Alatorre Bilingual Services Act, which is intended 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. (Gov. Code, tit. 1, div. 7, ch. 17.5, §§ 7290 et seq.)
- 10) Defines "a substantial number of non-English-speaking people" as 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 local office. (Gov. Code, § 7296.2.)
- 11) 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. (Gov. Code, § 7292(a).)

- 12) 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. (Gov. Code, § 7295.)
- 13) Requires every state agency that serves a substantial number of non-English speaking people and that provides materials in English explaining services to also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency, though the translation need not be verbatim. (Gov. Code, § 7295.2.)
- 14) Provides that the Dymally-Alatorre Bilingual Services Act shall be implemented to the extent that local, state, or federal funds are available. (Gov. Code, § 7299.)

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

COMMENTS

1. Author's comment

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 [meaningful] 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.

2. This bill requires a foster child or nonminor dependent in the foster system to receive certain documents in their primary language

At the beginning of 2022, over 55,000 children and nonminor dependents were in California's foster care system.¹ Data suggest that foster youth benefit from understanding their rights and being involved in their own case plan.² Current law recognizes that foster youth benefit from being provided such information, so current law requires foster youth to be provided with a copy of the Foster Care Bill of Rights at least once every six months; for a foster youth to be able to view and receive a copy of their case file; for a foster youth to review their own case plan, beginning at 10 years old; and for a foster youth aged 14 and older to be given the right to consult on their case plan.³

According to data provided by the author, 88.36 percent of youths in foster care speak English as their primary language, 10.8 percent speak Spanish as their primary language, and the remainder speak a range of primary languages including Mandarin, Cantonese, Arabic, and Armenian. Navigating the foster system is difficult enough for youths who speak English fluently; for youths who face language barriers, the lack of availability of translated materials is likely to prevent them from fully understanding their rights and meaningfully participate in their own case plan. Yet Committee staff have received no evidence indicating that any of the documents required to be provided to foster youths is ever provided in a foster youth's primary language.⁴

¹ California Child Welfare Indicators Project, University of California at Berkeley, Report: Children in Foster Care, CWS/CMS 2021 Quarter 3 Extract (Mar. 15, 2022), *available at* <https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTSG/r/ab636/s> (last visited Jun. 6, 2022).

² E.g., Hernandez, *Foster Youth Perspectives: How Foster Youth Navigate and Mobilize Their Rights within the Foster Care System*, Humanity & Society (Feb. 2021).

³ Welf. & Inst. Code, §§ 16001.9, 16501(g).

⁴ The Assembly Judiciary Committee's analysis of this bill raised the possibility that the California Department of Social Service's (CDSS) failure to provide translated documents to, at a minimum, foster youth who speak Spanish as their primary language might violate the Dymally-Alatorre Bilingual Services Act, which requires state agencies to provide translated versions documents when at least five percent of the population they regularly serve speak a primary language other than English. (Gov. Code, §§ 7292(a), Gov. Code, § 7295.2.) Committee staff have not received information from CDSS explaining whether it believes the Act applies to its provision of documents to foster youth or whether CDSS provides such documents. Mere compliance would not, however, resolve the problem addressed by this bill, because an agency's obligation to translate documents arises only when a population of individuals who speak a specific primary language other than English exceeds 5 percent of the population served by the agency. (*Id.*, § 7296.2.) Adhering only to the Act would thus leave the hundreds of foster youth who speak a language other than English or Spanish without translated documents.

This bill would require, for a foster child or nonminor dependent in foster care whose primary language is a language other than English, to be provided with the Foster Care Bill of Rights and their court report, case plan, and TILP in their primary language. 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 understand their rights and receive information essential to their well-being.

3. Arguments in support

According to the Children's Law Center of California, a co-sponsor of the bill:

We estimate that between one third to one half of the 900 youth speak a primary language other than English. Through our daily work, we have seen firsthand how these youth can feel disenfranchised, isolated and detached from their dependency case.

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, [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 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.

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

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 1838 (Bauer-Kahan, 2022) modifies, beginning January 1, 2024, the requirements for when a school district must provide translated versions of all notices, reports, statements, or records to the parents and guardians of the pupils. AB 1838 is pending before the Assembly Education Committee.

Prior Legislation:

AB 1531 (Salas, 2019) would have lowered the threshold for required translation services under the Dymally-Alatorre Bilingual Services Act from 5 percent to 3 percent of the population served by an agency that has a primary language other than English. AB 1531 died in the Assembly Appropriations Committee.

AB 3179 (Salas, 2018) would have lowered the threshold for required translation services under the Dymally-Alatorre Bilingual Services Act from 5 percent to 3 percent of the population served by an agency that has a primary language other than English. AB 3179 was vetoed by Governor Gavin Newsom, who stated in his veto message that the potential cost of the bill made it more properly considered as part of the budget process.

AB 1876 (Lopez, 2016) would have prohibited, beginning January 1, 2019, the Department of Education from approving or renewing approval of a contractor or testing center for purposes of unless the contractor or testing center provides the general education development tests approved by the state board in English, Spanish, and Vietnamese and an examinee is permitted to take the test in the language of their choice. AB 1876 died in the Senate Education Committee.

AB 1935 (Kim, 2015) would have required specified documents and updates to be posted on a school district's and county office of education's website in languages other than English if specified conditions were met. AB 1935 died in the Assembly Appropriations Committee.

PRIOR VOTES:

Senate Human Services Committee (Ayes 4, Noes 0)

Assembly Floor (Ayes 69, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 10, Noes 0)

Assembly Human Services Committee (Ayes 8, Noes 0)
