
THIRD READING

Bill No: AB 1735
Author: Bryan (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/20/22

AYES: Hurtado, Jones, Cortese, Pan

NO VOTE RECORDED: Kamlager

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22

AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern,
Wieckowski, Wiener

NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22

AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 69-0, 5/23/22 - See last page for vote

SUBJECT: Foster care: rights

SOURCE: Children's Law Center of California

DIGEST: 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. 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.

Senate Floor Amendments of 8/22/22 restructure the bill's provisions to increase clarity and ease with which printed copies of the updated Foster Youth Bill of Rights may be printed. Additionally, Welfare and Institutions Code section 16501.1 was struck and redrafted so that the existing law provisions could be updated to reflect changes made to the code section through the 2022 human services budget trailer bill.

ANALYSIS:

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; 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. (*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.

Background

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.

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. This bill also requires the Foster Youth Bill of Rights be made available and provided in languages besides English to children whose primary languages are not English. More information on the case plan and TILP can be found in the Senate Human Services Committee's analysis of this bill.

Comments

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.”

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 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- CDSS estimates ongoing local costs of \$91,000 (General Fund) for social worker time to request translation of documents and one-time state costs of \$500,000 (General Fund) to translate and print the updated Foster Youth Bill of Rights.
- To the extent this bill increases county costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment, this bill would apply to local agencies only to the extent that the state provides annual funding for the cost increases.

SUPPORT: (Verified 8/23/22)

Children's Law Center of California (source)
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: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 69-0, 5/23/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bigelow, Bloom, Boerner
Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper,
Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman,
Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson,
Haney, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein,
Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-
Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez,
Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron,
Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Berman, Mia Bonta, Jones-Sawyer, Mayes,
McCarty, O'Donnell, Blanca Rubio, Voepel

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