

SENATE THIRD READING
SB 354 (Skinner)
As Amended August 30, 2021
Majority vote

SUMMARY

Adopts changes to the criminal background check process during the resource family approval (RFA) process for relatives of children placed in the child welfare system; permits the court to authorize placement of children with relatives in certain circumstances, regardless of the status of any criminal exemption or RFA; and, requires, no later than January 1, 2024, the State Department of Social Services (CDSS) to submit a report to the Legislature related to criminal records exemptions and RFA, as specified.

Major Provisions

- 1) Requires, no later than January 1, 2024, CDSS to submit a report to the Legislature that includes certain data related to criminal background checks and RFA, as specified.
- 2) Expands the list of crimes for which CDSS may grant a criminal records exemption to a relative to include sexual battery, willfully causing harm to a child, and mayhem, among others, as specified, and, further, permits CDSS or another approving entity to grant an exemption for a relative and any other adult living in the home who has been convicted of these offenses if certain criteria are met, as specified.
- 3) Declares that exemptions to crimes that were previously non-exemptible, as proposed by the provisions of this bill, only apply to the placement of a specific child or children, and, further, prohibits the exemption from being transferable for the placement of another child or children, as specified.
- 4) Makes changes to the criteria upon which CDSS may grant an exemption from disqualification to a foster care provider, resource family applicant, a tribally approved home applicant, a respite care provider or any individual subject to the background check requirements, as specified.
- 5) Expands the list of criteria that CDSS is required to consider when granting an exemption for certain crimes, as specified.
- 6) Requires, after reviewing the placement recommendation of the county welfare department, the court to use its independent judgment in evaluating whether to order a temporary placement of a child in the home of a relative. Further, permits the court to order the temporary placement regardless of the status of any criminal exemption or RFA if certain conditions are met, as specified.
- 7) Permits, when determining the placement of a child who is adjudged a dependent of the court, if the court determines that placement with a relative does not pose a risk to the health and safety of the child, as specified.
- 8) Requires, in instances where the county welfare department has considered placement with a relative, as specified in current law, and after reviewing the placement recommendation of the county welfare department, the court to use its independent judgment in evaluating

whether to order the placement of a child in the home of a relative, and, further, permits the court to order a temporary placement regardless of the status of any criminal exemption or RFA if the court finds that the placement does not pose a risk to the health and safety of the child, as specified.

- 9) Permits the emergency placement of a child to be made in instances where information obtained through the California Law Enforcement Telecommunications System (CLETS) indicates that the individual has been convicted of certain crimes when a criminal record exemption has been granted, as specified.
- 10) Expands eligibility for emergency caregiver payments, as defined in current law, to include caregivers with whom a child is placed on an emergency basis pursuant to the provisions of this bill.
- 11) Adopts a number of changes to the RFA process, as specified.
- 12) Makes technical and conforming changes.

COMMENTS

Emphasis on placement with relatives: It has long been the goal of the CWS system to preserve familial ties whenever possible. Under certain circumstances, family maintenance services are provided to families in order to prevent the removal of children from their parents' home, including family therapy, parenting classes, or substance use treatment. However, in instances when a youth is removed from the custody of their parents and placed in the CWS system, county social workers are required to locate any relatives who may serve as caregivers to the youth. When a relative agrees to become a caregiver, it is often done on an emergency basis; as such, these emergency caregivers are not yet approved as resource families, and therefore do not receive many of the supports and services afforded to caregivers approved through the RFA process, including foster care payments, which help provide for the needs of foster youth. Still, in recent years, funding has been allocated to alleviate financial strains on relatives who care for children prior to being approved as resource families; in 2018, AB 1811 (Committee on Budget), Chapter 35, Statutes of 2018, permitted, for fiscal year 2019-20 and beyond, payments to be made to emergency caregivers through the Temporary Assistance to Needy Families Emergency Assistance Program. Of the 59,716 youth in the CWS system on January 1, 2021, 34% (20,405) youth were placed with relatives or nonrelative extended family members.

Need for this bill: The provisions of this bill seek to build upon changes made to California's CWS system through CCR, RFA, and previous legislation. This bill also seeks to further the intent of California law, as well as the Appellate Court decision in *In re C.P.*, to maintain familial bonds and place children with relatives whenever it is possible and safe to do so. Specifically, this bill would require CDSS to submit a report to the Legislature no later than January 1, 2024, detailing information and data related to criminal records exemptions and the RFA process. This bill would also permit CDSS, for relatives or any other adult living in the home, to grant an exemption to non-exemptible crimes if certain criteria is met. Additionally, this bill would require the court, in certain circumstances, to use its independent judgment in evaluating whether to order temporary or emergency placements of children with relatives regardless of the status of any criminal exemption or RFA if the court makes certain health and safety-related findings. This bill would also prohibit the denial of RFA if a relative has a family-

like relationship with a child, or a child is already placed in the home of the relative, unless the county has evidence to establish that the placement poses a risk to the child's health and safety.

Please see the policy committee analysis for full discussion of this bill.

According to the Author

"The State of California has over 60,000 children in the foster care system, and these children are disproportionately from Black and brown families. According to the Child Welfare Indicators Project, Black and Latinx children are 2.8 and 1.22 times more likely to have contact with the foster care system than their white counterparts. This, coupled with a history of mass incarceration in the United States, has led to children of system-impacted families facing many barriers to being reunited with their parents or relatives.

"[This bill] seeks to remove barriers to children being placed with family members instead of a non-family caregiver or in congregate care by ensuring that any existing relationship between a relative caregiver and a child is considered in decisions regarding home approval and placement."

Arguments in Support

The County Welfare Directors Association of California (CWDA) state "[this bill] ensures that any existing relationship between a prospective relative caregiver and a child is considered in decisions regarding home approval and placement. Additionally, the bill addresses current obstacles causing placement delays or denials for prospective relative caregivers by: 1) waiving income requirements when appropriate and supporting relatives in accessing necessary supplies, such as cribs, car seats and booster seats; 2) broadening the list of convictions that qualify for exemptions and simplified exemptions; and 3) clarifying the court shall use its independent judgement in placement decisions".

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Senate Appropriations Committee on August 26, 2021:

- 1) CDSS estimates costs of \$713,000 (General Fund (GF)) in the first year, and \$687,000 (GF) annually thereafter, for five staff positions to process an increased number of criminal records exemptions, and costs of \$15,600 (GF) to make related changes to the Guardian System.
- 2) CDSS estimates one-time costs of \$465,000 (GF) to add required data points to the CARES system necessary to meet the CCW Council reporting requirements, and one-time costs of approximately \$7.3 million (GF) for 41 full time equivalent (FTE) staff positions statewide, for counties to compile and submit information for the CCW Council report. CDSS indicates the information required for the report is not currently collected in any statewide system.
- 3) CDSS estimates costs of an unknown amount, but likely in the tens of thousands of dollars (GF) annually, to the extent this bill results in criminal records exemptions for relatives or NREFMs who are registered sex offenders (RSOs) and, thus, require additional RSO investigations during the RFA process. The potential increase in RSO investigations is

unknown, but the cost of a 10% increase in RSOs with regular contact with clients, or 24 additional RSO investigations, is approximately \$54,000 GF.

- 4) CDSS estimates costs of an unknown amount, but likely near \$1 million (GF) annually, to the ARC assistance payment program for increased caseload resulting from the changes to the criminal records exemptions. The potential increase in ARC cases is unknown, but the cost per 100 cases is estimated to be up to \$106,344 (GF) per month and \$1.3 million (GF) per year. The ARC program uses 100% GF to fund the difference between the TANF payment provided to relative caregivers of nonfederally eligible FC children, and the higher Home Based Family Care rate paid to relative caregivers of federally eligible children.
- 5) Workload cost pressures of an unknown amount to the Juvenile Dependency Court for increased hearing time to make the court finding on risk. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the GF to increase the amount appropriated to backfill for trial court operations. (GF-Trial Court Trust Fund)

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Archuleta, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Atkins, Limón

ASM HUMAN SERVICES: 7-0-1

YES: Calderon, Davies, Bryan, Choi, Stone, Villapudua, Ward

ABS, ABST OR NV: Arambula

ASM JUDICIARY: 10-0-1

YES: Stone, Gallagher, Chau, Chiu, Davies, Lorena Gonzalez, Holden, Kalra, Maienschein, Reyes

ABS, ABST OR NV: Kiley

ASM APPROPRIATIONS: 11-0-5

YES: Bryan, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Kalra

ABS, ABST OR NV: Lorena Gonzalez, Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: August 30, 2021

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FN: 0001394