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## SENATE COMMITTEE ON HUMAN SERVICES

Senator Hurtado, Chair  
2021 - 2022 Regular

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**Bill No:** SB 384  
**Author:** Cortese  
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**Consultant:** Marisa Shea  
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**Fiscal:** Yes

**Subject:** Juveniles: relative placement: family finding

### SUMMARY

This bill requires county welfare and probation departments to notify the California Department of Social Services (CDSS) and the State Foster Care Ombudsperson (Ombudsperson) whether it has adopted and implemented one of the suggested practices for family finding, as specified. If the county welfare department or probation department has not adopted one of the suggested practices, the bill requires they provide a copy of their existing policies and practices to CDSS and the Ombudsperson. Additionally, the bill specifies that required due diligence of the social worker or probation officer shall include family finding, as defined by this bill.

### ABSTRACT

#### Existing Law:

- 1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (*WIC 202*)
- 2) Establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction of the juvenile court and may be adjudged as a dependent child of the court, as specified. (*WIC 300 et seq.*)
- 3) Requires a social worker to immediately investigate the circumstance of the child and the facts surrounding the child being taken into custody and attempt to maintain the child with the child's family through the provision of services, when a child is taken into temporary custody, as provided, and brought to the social worker. (*WIC 309(a)*)
- 4) Requires the social worker to immediately release the child taken into temporary custody to the custody of the child's parent, guardian, Indian custodian, or relative, regardless of the parent's, guardian's, Indian custodian's, or relative's immigration status, unless a specified condition, as provided, is met. These conditions include: the child has no parent, guardian, Indian custodian or relative willing to care for the child; continued

detention of the child is a matter of immediate and urgent necessity for the protection of the child; for Indian children, continued detention of the child continues to be necessary to prevent imminent physical damage or harm to the child; among others. (WIC 309(a))

- 5) Considers a child to be detained when taken into temporary custody and not released to their parent or guardian. (WIC 309(c))
- 6) Requires the county welfare department to initiate an assessment of a relative or non-relative extended family member's suitability for emergency placement if a relative, an extended family member of an Indian child, or a nonrelative extended family member is available and requests emergency placement of the child pending the detention hearing, or after the detention hearing and pending the dispositional hearing, as provided. (WIC 309(d)(1))
- 7) Provides for the continued placement of a child in a relative or non-relative extended family member's (NREFM) home following additional assessment and approval as a resource family, as provided. (WIC 309(d)(2))
- 8) Requires a social worker to conduct, within 30 days of a child's removal, an investigation to identify and locate all grandparents, parents of a sibling of the child, adult siblings, other adult relatives, and, if the child is an Indian child, any extended family members, as defined. Further requires the social worker to provide to all located adult relatives written notification, and whenever appropriate oral notification, information regarding the child's removal, an explanation of various options to participate in the care and placement of the child and support for the child's family, as provided. (WIC 309(e)(1))
- 9) Requires the social worker to provide notified adult relatives with a relative information form to provide information to the social worker and the court regarding the needs of the child. (WIC 309(e)(2))
- 10) Requires a social worker to use due diligence in investigating the names and locations of relatives, including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, and obtaining information regarding the location of the child's adult relatives. (WIC 309(e)(3))
- 11) Requires each county welfare department to create and make public a procedure by which relatives of a child who has been removed may identify themselves to the county welfare department and be provided with required notices, as provided. (WIC 309(e)(3))
- 12) Requires at the initial detention hearing the court to take certain steps to evaluate the case, determine whether the child can be returned home safely, and, if not, to ensure the child is placed in an appropriate placement, with priority consideration for family members and NREFM. (WIC 319)
- 13) Requires that in any case in which a child is removed from the physical custody of his or her parents, preferential consideration must be given to a request by a relative of the child for placement of the child with the relative, regardless of the relative's immigration status. In determining whether placement with a relative is appropriate, the county social

worker and the court must consider a variety of factors, as specified, including the ability of the relative to provide a safe, secure and stable environment for the child and protect the child from his or her parents. (*WIC 361.3(a)*)

- 14) Defines “relative” to mean an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of these persons even if the marriage was terminated by death or dissolution. Establishes that the only relatives who shall be given preferential consideration for the placement of the child are an adult who is a grandparent, aunt, uncle, or sibling. (*WIC 361.3(c)(2)*)
- 15) Requires the court to make a finding as to whether the social worker has exercised due diligence in conducting the investigation to identify, locate, and notify the child’s relatives of the child’s disposition into foster care. Further requires the court to consider the following, among others, as examples of due diligence: asked the child in an age-appropriate manner about their relatives; asked located relatives for names and locations of other relatives; telephoned, emailed, or visited all identified relatives; used Internet search tools to locate relatives identified as supports; among others. (*WIC 358(b)*)
- 16) Provides that any minor between 12 years of age and 17 years of age, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of his or her parents, guardian, or custodian, or who is beyond the control of that person is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. (*WIC 601*)
- 17) Creates a parallel temporary custody and emergency relative placement process for minor’s taken into custody by probation, as provided. (*WIC 628*)

**This Bill:**

- 1) Specifies that any parent and alleged parent are included among the relatives a social worker should use due diligence in investigating the names and locations of.
- 2) Requires each county welfare office to notify CDSS and the Ombudsperson, on or before January 1, 2023, in an email or other correspondence, whether it has adopted one of the suggested practices for family finding described in All-County Letter 18-42, and whether the practice has been implemented through training, memoranda, manuals, or comparable documents.
- 3) Requires the county welfare department, if they have not adopted one of the suggested practices for family finding, to provide a copy to CDSS and the Ombudsperson of its existing family finding policies and practices, as provided, that are in existence prior to January 1, 2022.
- 4) Clarifies that due diligence for the purposes of the child welfare social worker’s effort to locate relative shall include family finding. Defines family finding for this purpose as meaning identifying relatives and kin through a computer-based search engine, which

connects a child or youth, who may be disconnected from their parents, with those relatives and kin in an effort to provide family support and possible placement.

- 5) Makes the above changes to requirements placed on probation offices and county probation departments working on identifying relatives of a youth who is at risk of entering a foster care placement.

### FISCAL IMPACT

This bill has not yet been analyzed by a fiscal committee.

### BACKGROUND AND DISCUSSION

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

According to the author, “SB 384, The Family Finding Act, will provide more children a permanent home. The bill requires counties to implement the use of family finding, which is a critical tool already at the disposal of social workers and probation officers.” According to the author, family finding “has been considered a best practice and has increased relative placements among youth removed from parental care in counties that have taken advantage of the tool. Relative placement is in the best interest of a child for a variety of reasons, including increased stability for a child, preservation of cultural identity and connections to the community, and less school changes.” This bill “builds upon existing law to ensure that all counties across the state utilize family finding protocols, increasing the likelihood of children being placed in a permanent family environment,” per the author.

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

The CWS system is an essential component of the state’s safety net. Social workers in each county who receive reports of abuse or neglect, 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 and placed into foster care. In 2019, the state’s child welfare agencies received 477,614 reports of abuse or neglect. Of these, 69,652 reports contained allegations that were substantiated and 28,646 children were removed from their homes and placed into foster care via the CWS system. As of October 1, 2020, there were 60,045 children in California’s CWS system.

Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county’s juvenile dependency court. The dependency court holds legal jurisdiction over the child, while the child is served by a CWS system social worker. 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. Reunification is accomplished through the child’s biological parents completing all reunifications requirements ordered by a dependency court judge, which typically involves the provision of services, such as drug counseling or parenting classes, to that parent. In instances where reunification is not possible, due to the parent being unable or unwilling to meet the court’s requirements, it is the

state's goal to provide a permanent placement alternative, such as adoption or guardianship, with priority placed on uniting children with other relatives or nonrelative extended family members.

### *Dependency Court Process*

The juvenile dependency court holds legal jurisdiction over a foster child or non-minor dependent (NMD). The juvenile dependency court is responsible for determining whether a child is safe and for making decisions about the care and control of the child. The court also orders the provision of services to the child and biological parents through a variety of court hearings. This dependency court process sets the path through which a child welfare case is prescribed. When a child is first detained, the judge reviews the facts and decides whether to remove the child from their parents or to return the child home, typically with instructions that parents participate in services. At this hearing, which is referred to as the detention hearing, the court will also try to identify any suitable relatives who may be able to care for the child while the case is pending.

The second hearing is a jurisdictional hearing, in which the merits of the case are decided, this may include a trial on the facts. At this hearing, which must be held within 15 court days from the date of the detention order if the child has been removed from their family, a judge determines whether the allegations of abuse or neglect in the petition filed with the court are true. If the judge determines the allegations to be true, the court takes authority over the child, making the child a dependent of the court and entering the child into the CWS system. This gives the judge the authority to make orders regarding the child's care. If the judge finds the allegations are true at the jurisdictional hearing, then a dispositional hearing is held, sometimes on the same day.

At a dispositional hearing the judge decides: where and with whom the child should live (including whether the child can return home or be removed from their parent's custody); when, where, and how visitation between the child and their parent occurs; what services the child needs to be safe and healthy; and what services the parent needs in order to be reunified with their child. Subsequent hearings evaluate the status of the parents' attempts to reunify with the child and the child's well-being. As a result of SB 1336 (*Jackson, Chapter 890, Statutes of 2016*), a judge is required to determine whether a child's social worker has exercised due diligence in conducting their investigation to identify, locate, and notify a dependent child's relatives of the child's involvement with the CWS system and to continue the dispositional hearing if the court determines the social worker did not exercise due diligence.

### *Continuum of Care Reform (CCR)*

The CCR is a system-wide effort to institute a series of reforms to California's CWS program. It is designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. CCR was designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care. Assembly Bill 403 (*Stone, Chapter 773, Statutes of 2015*) was the first of six CDSS-sponsored CCR bills and provided the statutory and policy framework to ensure services

and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family.

### *Placement with Relatives*

State and federal law include a preference to place children in out-of-home care with relatives. For example, state law, Welfare and Institutions Code Section 361.3, states that preferential consideration must be given to a request by a relative of the child for placement of the child with the relative. The child's social worker must still determine whether such a placement is appropriate by considering a variety of factors, as specified, including the ability of the relative to provide a safe, secure, and stable environment for the child, but preference is provided for a relative or NREFM placement.

Numerous nationwide studies have documented the poor outcomes of children and youth who are removed from their homes and placed into the child welfare system. Children involved with the CWS system have increased rates of chronic health problems, developmental delays and disabilities, mental health needs, and substance abuse problems. Many youth in care have experienced traumatic events, including removal from their homes that lead to symptoms such as depression, behavior problems, hypersensitivity, and emotional difficulties. Twenty-five percent of youth who age-out of care experience Post-Traumatic Stress Disorder – double the rate of U.S. war veterans.<sup>1</sup> Studies have also demonstrated the significant benefit to children in the child welfare system that are placed with relatives rather than with strangers in foster homes or in group care. A 2008 study in the Archives of Pediatric and Adolescent Medicine found that children placed into kinship care had fewer behavioral problems three years after placement than children who were placed into foster care. This study also noted that a large body of research acknowledges the evidence that children in kinship care are less likely to change placements, benefiting from increased placement stability and better outcomes. Researchers also found that children placed with relatives were more likely to remain in their same neighborhood, be placed with siblings, and have consistent contact with their birth parents than other children in foster care.<sup>2</sup>

In support of this preference, a variety of recent legislative efforts encourage relatives to care for children in the CWS system. The Approved Relative Caregiver funding program (*SB 855 (Committee on Budget and Fiscal Review, Chapter 29, Statutes of 2014)*) was established, initially as a county option, to provide funding to family caregivers in an amount equal to the basic foster care rate. The program was made mandatory through CCR, with the passage of AB 403 (*Stone, Chapter 773, Statutes of 2015*), remedying rate inequity that left many low income relatives with support payments from the CalWORKs program only, which are significantly less than the basic foster care rate. Furthermore, the Resource Family Approval Program (RFA), which was established in 2012 as a five-county pilot project and designed to be a unified, family friendly, child centered, single process for the approval of foster family homes, relative homes for foster care, and to approve families for legal guardianship or adoption. The RFA process replaced multiple processes for licensing and approving homes of relative and nonrelative caregivers, and was enacted statewide through CCR. However, some advocates believe additional changes to the

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<sup>1</sup> [http://www.childrensaidsociety.org/files/upload-docs/report\\_final\\_April\\_2.pdf](http://www.childrensaidsociety.org/files/upload-docs/report_final_April_2.pdf)

<sup>2</sup> *Arch Pediatr Adolesc Med.* 2008;162(6):550-556. doi:10.1001/archpedi.162.6.550.

RFA process may be needed to ensure that it reduces burdens for relative caregivers, as intended. This is not the subject of this bill, but rather other ongoing efforts.

### *Family Finding and Engagement (FFE)*

As discussed in this committee's analysis of SB 1336, preference for relative placement in statute doesn't result in children being placed with relatives unless efforts are made to locate and connect with those relatives. As retired Santa Clara juvenile court Judge Len Edwards wrote in the national journal for the Court Appointed Special Advocates for Children,

“Relative preference statutes mean little without rigorous social work immediately following removal of the child from parental care. The social worker must learn from the parents who the child's relatives are, contact them, and encourage them to become involved in the child protection case. The sooner this is accomplished, the more likely that the relatives will become engaged. The law now gives relatives the right to appear before the court and speak on behalf of the child. Just as importantly, relatives have the ability to participate in group decision-making processes such as family group conferences, team decision making, family team meetings, and court-based mediation. ... Delay in relative engagement often means that they will not be selected as placement for the child. The child protection system is notoriously slow. Fact finding hearings may take months to complete. Placement issues may take over a year. Yet in the meantime the child will be living with a family and will naturally become strongly connected to that family. The late-arriving relative often finds that the foster family will be preferred because of the connection between the child and that family.”<sup>3</sup>

According to All County Letter (ACL) 18-42, FFE is a “broad concept which encompasses not only the statutory requirements pertaining to identifying, locating and notifying the relatives of a child in foster care, but also related efforts to foster life-long familial connections for children and youth in care.”<sup>4</sup> ACL 18-42 goes on to name these efforts as an important component of CCR because counties may utilize FFE to identify possibly relative or NREFM placements for children and youth who reside in congregate care settings, potentially allowing them to step down to a home-based care setting. This helps counties meet the goals of CCR, enhancing the long-term well-being of children and youth in care and reducing the use of congregate care. Additionally, ACL 18-42 advised counties to utilize FFE when opening a case as a way to identify the best possible placement for a child or youth. The letter then goes on to advise counties of suggested practices for FFE, including: using the child as a primary information source; having assigned, dedicated staff to conduct FFE activities; and suggestions for follow-up and engagement. ACL 18-42 also informs counties of established FFE models and notes their ability to utilize an established proprietary or independent model, such as the family finding practice developed by Kevin Campbell and offered through the Seneca Family of Agencies.<sup>5</sup>

This bill proposes to continue efforts to strengthen FFE efforts by requiring counties, through email or other correspondence, to notify CDSS and the Ombudsperson, on or before January 1,

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<sup>3</sup> [http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.7792495/k.8FF1/JP\\_1\\_Edwards.htm](http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.7792495/k.8FF1/JP_1_Edwards.htm)

<sup>4</sup> <https://www.cdss.ca.gov/Portals/9/ACL/2018/18-42.pdf>

<sup>5</sup> *Id.*

2023, whether the county has adopted one of the suggested practices for family finding described in ACL 18-42. If a county has not adopted one of the suggested practices for family finding described in ACL 18-42, this bill would require the county welfare department to provide a copy of its existing family finding policies and practices, as provided, that are in existence prior to January 1, 2022 to CDSS and the Ombudsperson.

**Related/Prior Legislation:**

*SB 354 (Skinner, 2021)* would make changes to the crimes for which an exemption may be granted for relative caregivers, as provided. This bill is waiting to be heard by this Committee.

*SB 1336 (Jackson, Chapter 890, Statutes of 2016)* required the juvenile court to consider whether the social worker exercised due diligence in conducting their investigation to identify, locate, and notify a dependent child's relatives, as provided.

*AB 403 (Stone, Chapter 773, Statutes of 2015), AB 1997 (Stone, Chapter 612, Statutes of 2016), AB 404 (Stone, Chapter 732, Statutes of 2017), AB 1930 (Stone, Chapter 910, Statutes of 2018), AB 819 (Stone, Chapter 777, Statutes of 2019) and AB 2944 (Stone, Chapter 104, Statutes of 2020)* implemented CCR to better serve children and youth in California's child welfare services system.

**COMMENTS**

This bill is seeking to encourage FFE by having the county welfare departments report to CDSS and the State Foster Care Ombudsperson what practices for family finding the county has implemented. The bill would not require any additional action be taken with that information. Should this bill pass out of this committee, the author may wish to work with CDSS and other stakeholders to determine whether this information should be publicly posted or shared in other ways. By sharing this information, additional efforts may be able to be made to increase and encourage FFE around the state.

Additionally, this bill would define family finding as identifying relatives and kin through a computer-based search engine for the purposes of a social worker's due diligence requirements in investigating the names and locations of relatives during the social worker's initial investigation following removal of a child. However, current practices and law do not require counties to utilize a computer based search engine for family finding. Thus, this definition would likely be seen as requiring counties to use a computer based search engine in order for social workers to meet their due diligence requirements. To clarify that this would not require the use of a computer based search to meet the requirements of family finding, this committee suggests the following amendments:

**Amendment One**

Make the following changes to Section 391(e)(3)(B) on page 6, lines 17 through 18 of the bill:

*391(e)(3)(b) The due diligence required under subparagraph (A) shall include family finding. For purposes of this section, "family finding" means ~~identifying~~ **conducting an investigation,***



*including but not limited to through a computer-based search engine, to identify* relatives and kin ~~through a computer-based search engine,~~ which connects a child or youth, who may be disconnected from their parents, with those relatives and kin in an effort to provide family support and possible placement.

### Amendment Two

Make the following changes to Welfare and Institutions Code Section 628(d)(3)(B) on page 9, lines 29 through 30 of the bill:

628(d)(3)(B) *The due diligence required under subparagraph (A) shall include family finding. For purposes of this section, “family finding” means identifying* **conducting an investigation, including but not limited to through a computer-based search engine, to identify** relatives and kin ~~through a computer-based search engine,~~ which connects a child or youth, who may be disconnected from their parents, with those relatives and kin in an effort to provide family support and possible placement.

Additionally, the committee proposes the following technical changes to clarify the definition of relative and notice provided to relatives.

### Amendment Three

Make the following changes to Welfare and Institutions Code Section 391(e)(3)(A), on page 5, lines 28 through 29 of the bill:

391(e)(3)(A) The social worker shall use due diligence in investigating the names and locations of the ~~relatives~~ relatives, **including as well as** any parent and alleged parent, pursuant to paragraph (1), including, but not limited to, asking the child in an age-appropriate manner about any parent, alleged parent, and relatives important to the child, consistent with the child’s best interest, and obtaining information regarding the location of the child’s parents, alleged parents, and adult relatives. Each county welfare department shall ~~create~~ *do both of the following:*

### Amendment Four

Make the following changes to Welfare and Institutions Code Section 391(e)(3)(A)(i), on page 5, line 39 of the bill:

391(e)(3)(A)(i) *Create* and make public a procedure by which a parent and relatives of a child who has been removed from ~~his or her~~ their parents or guardians may identify themselves to the county welfare department and **be provided the county welfare department shall provide relatives** with the notices required by paragraphs (1) and (2).

## POSITIONS

### Support:

California Judges Association/Juvenile Court Judges of California

### Oppose:

None received.

**-- END --**