

Date of Hearing: June 28, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

SB 384 (Cortese) – As Amended June 16, 2022

SENATE VOTE: 37-0

SUBJECT: Juveniles: relative placement: family finding

SUMMARY: Requires each county welfare and probation department (county) to notify the California Department of Social Services (CDSS) and the Office of the State Foster Care Ombudsperson (OFCO) whether it has adopted one of the suggested practices for family finding, as described, and how the practice has been implemented. Requires a county who has not adopted one of the suggested practices to provide a copy of its existing family finding policies and practices to CDSS and OFCO. Includes “family finding” activities within the due diligence required of a social worker and probation officer when investigating the names and locations of relatives. Specifically, **this bill**:

- 1) Requires the social worker and probation officer to include, as part of their due diligence, any parent and alleged parent when investigating the names and locations of the relatives upon removal of a child from their home, and obtaining information regarding their location.
- 2) Defines “family finding” to mean conducting an investigation, including, but not limited to, through a computer-based search engine, to identify relatives and kin and to connect 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. If it is known or there is reason to know that the child is an Indian child, as defined, “family finding” also includes contacting the Indian child’s tribe to identify relatives and kin.
- 3) Aligns county probation department requirements with those of the county welfare department by requiring county probation departments to also create and make public a procedure by which a parent and relatives of a child who has been removed from their parents and guardians may identify themselves and be provided with specified notices.
- 4) Requires each county to notify CDSS and OFCO, 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 (ACL 18-42) and, generally, whether the practice has been implemented through training, memoranda, manuals, or comparable documents.
- 5) Requires, if a county has not adopted one of the suggested practices for family finding described in ACL 18-42, the county to provide a copy to CDSS and OFCO of its existing family finding policies and practices, as reflected in memoranda, handbooks, manuals, training manuals, or any other document, that are in existence prior to January 1, 2022.
- 6) Makes technical changes.

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 have been abused or neglected, as specified. (Welfare and Institutions Code Section [WIC] 202)
- 2) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, 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) States the intent of the Legislature to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with their biological family whenever possible, or to provide a permanent placement alternative, such as adoption or guardianship. (WIC 16000)
- 4) Requires a county to file a petition to the court requesting a detention hearing within 48 hours of placing a child under temporary custody to determine whether a child should remain in custody and whether any specific court permissions are necessary to provide for the health and safety of the child. (WIC 313 and 319)
- 5) Requires a social worker, within 30 days of taking a child into temporary custody or whenever appropriate to identify and locate all adults who are related to the child by blood, adoption, or affinity within the fifth degree of kinship and provide for the purposes of informing them of their right to participate in the care and placement of the child, as specified. (WIC 309(e))
- 6) Requires preferential consideration be given to a request by a relative to have the child placed with the relative if the child has been removed from the physical custody of the child's parent(s). (WIC 361.3(a))
- 7) Requires, when placing a child in the home of a relative, an extended family member, or non-relative extended family member (NREFM) on a temporary basis, the court to consider the recommendations of the social worker based on the assessment required by current law, including the results of a criminal records check and prior child abuse allegations, if any, before ordering that the child be placed with a relative or NREFM. (WIC 319(h)(3))
- 8) Requires CDSS to provide technical assistance to encourage and facilitate the county placement agency's evaluation of placement needs and the development of needed placement resources and programs. (WIC 16001.1)
- 9) Requires updates by counties as it relates to children placed by child welfare, the family finding activities attempted or underway, or other activities to connect the child to caring adults outside of the congregate (group home) care setting; identification of the counties that have any existing or planned contracts, or efforts to directly provide or contract for intensive child specific recruitment services; identification of counties with any existing or planned specialty mental health services targeted to address the mental health service needs of a foster child transitioning from congregate care to permanency or other family-based care setting, and a summary of any gaps that remain; and the number of children that successfully achieved permanency following receipt of the services described. (WIC 16523.57)

- 10) Requires the juvenile court to make full consideration of the proximity of a child's natural parents to the potential foster care placement of that child in order to facilitate visitation and family reunification, and if possible, for the placement to be made in the home of a relative, unless the placement would not be in the best interest of the child. (Family Code Section [FAM] 7950(a))
- 11) Requires county child welfare agencies to make diligent efforts to locate an appropriate relative, and the juvenile court to find that these efforts have been made, prior to placement in long-term foster care. Further provides that nothing may preclude a search for an appropriate relative while the child is in foster care. (FAM 7950(a)(1) and (c))
- 12) Defines "child and family team" to mean a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being. (WIC 16501(a)(4))
- 13) Establishes OFCO as an autonomous entity within CDSS for the purpose of providing children who are placed in foster care, either voluntarily or pursuant to WIC Section 300 and WIC Sections 600 and following, with a means to resolve issues related to their care, placement, or services. (WIC 16161)
- 14) Requires OFCO to disseminate information and provide training and technical assistance to foster youth, social workers, probation officers, tribes' child welfare agencies, child welfare organizations, children's advocacy groups, consumer and service provider organizations, and other interested parties on the rights of children and youth in foster care, reasonable and prudent parent standards, and the services provided by the office. Requires the information to include methods of contacting the office and notification that conversations with the office may be disclosed to other persons, as necessary to adequately investigate and resolve a complaint. (WIC 16164(a)(1)(A))
- 15) Requires OFCO to receive complaints made by or on behalf of children placed in foster care, related to their care, placement, or services, including for children placed by the Office of Refugee Resettlement of the United States Department of Health and Human Services in residential facilities and homes that are subject to regulation by CDSS, as specified. (WIC 16164(a)(2))

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, this bill has negligible state costs.

COMMENTS:

Child Welfare Services (CWS): California's CWS system exists to protect children from abuse and neglect, and in doing so, to provide for their health, safety, and overall well-being. When suspicions of abuse or neglect arise, often as a result of a report by a mandated reporter like a doctor or teacher, Child Protective Services is tasked with investigating the report. If the allegation of abuse or neglect is substantiated, it is then determined whether it is in the best interest of the child to remain in their parent's custody or be placed within the CWS system. If a child is suspected to be at risk of neglect, abuse, or abandonment, the juvenile court holds legal jurisdiction, and the CWS system appoints a social worker to ensure that the needs of a youth are

met. As of January 1, 2022, there were 55,539 youth between the ages of 0 and 21 placed in California's CWS system.

California's CWS programs are administered by the 58 individual counties which means that each county organizes and operates its own program of child protection based on local needs while complying with state and federal regulations. Counties are the primary governmental entities that interact with children and families when addressing issues of child abuse and neglect. Counties, either directly or through providers, are responsible for obtaining or providing the interventions and applicable services to protect the well-being of children and to help families address issues of child abuse and neglect. CDSS monitors and provides support in the counties efforts to best serve children and families.

Continuum of Care Reform (CCR): Beginning in 2015, California enacted legislation, known as CCR, to improve placement and treatment options for youth in foster care. AB 403 (Stone), Chapter 773, Statutes of 2015, sponsored by CDSS, sought to improve outcomes for children and youth served by the CWS system by working to ensure that foster youth have their day-to-day physical, mental, and emotional needs met, that they have the opportunity to grow up in permanent and supportive homes, and have the opportunities necessary to become self-sufficient and successful adults. CCR also sought to reduce the use of congregate care as a frequently used placement option for youth, as data have demonstrated that youth placed in congregate care settings experience poorer outcomes than youth placed in family settings.

Resource Family Approval (RFA): The RFA process is a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship approval processes. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families, including relatives, in order to ensure that caregivers are equipped to best meet the needs of youth in foster care. RFA is also a route to direct permanency for caregivers who wish to adopt or be guardians of youth in care, as the RFA process includes elements required by both the adoption and guardianship processes.

Family finding and due diligence: 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 or NREFMs who may serve as caregivers to the youth.

Data from the California Child Welfare Indicators Project shows that in October 2021, the total number of all children in foster care for 24 months or longer, including foster children 18 years of age and older and foster children living with relatives, was 27,475, or 46% of all children in foster care.

According to ACL 18-42, distributed by CDSS, family finding and engagement is defined as 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. The ACL further describes these additional efforts, which are meant to enhance the long-term well-being of children and youth in care, as an important component of CCR's goal to reduce the use of congregate care and improve

child welfare outcomes. Intensive family finding and engagement can be used by counties to identify possible relative or NREFM placements for children and youth currently placed in group homes, potentially allowing those children and youth to step down to a home-based care setting, consistent with the goals of CCR. Counties are also urged to seek out the practice of family finding and engagement above and beyond the statutorily required relative finding, to be used when opening a case as a way to identify the best possible placement for the child or youth.

According to studies conducted by Chapin Hall, an independent policy research center at the University of Chicago, children placed with family have better behavioral and mental health outcomes than their peers in traditional foster care. Children in kinship care, which is broadly defined as relatives or close family friends, have fewer placements and school changes and are less likely to run away from home than children in traditional foster care. They are more likely to report that they “always felt loved” and have higher satisfaction with kin placement.

Existing law requires the juvenile court, during the dispositional hearing for a dependent child, to make a finding that the child’s social worker has exercised due diligence in identifying, locating and notifying the child’s relatives. Effective January 1, 2017, all new relative home placements were required to meet RFA standards and counties are encouraged to consider the likelihood that a relative will be able to meet those standards when evaluating that possibility. Existing law also provides for a process to place with a relative, either on an emergency basis or based on a compelling reason, prior to full RFA approval.

Office of the Foster Care Ombudsperson: OFCO is an autonomous entity within CDSS that functions as a voice for foster youth while also receiving and investigating complaints made by or on behalf of children placed in foster care, related to their care, placement, or services.

As part of the office’s responsibilities, OFCO can decide, in its discretion, whether to investigate a complaint, or refer complaints to another agency for investigation. After rendering a decision to investigate a complaint, OFCO will attempt to resolve the complaint without using a judicial or administrative proceeding

OFCO is also responsible for disseminating information and providing training and technical assistance to foster youth, social workers, probation officers, tribes’ child welfare agencies, child welfare organizations, children’s advocacy groups, consumer and service provider organizations, and other interested parties on the rights of children and youth in foster care, reasonable and prudent parent standards, and the services provided by the office. AB 899 (Liu), Chapter 683, Statutes of 2001, adopted California’s Foster Youth Bill of Rights and required social workers and probation officers to periodically inform children of these rights in an age-appropriate manner; OFCO to, in consultation with stakeholders, develop and disseminate information on these rights; and any facility licensed to provide foster care for six or more children to post a listing of these rights. Over time, the Foster Youth Bill of Rights has evolved to reflect the needs of youth in care and currently enumerates 41 separate rights.

Need for this bill: The provisions of this bill seek to identify which counties have employed suggested family finding practices in an effort to increase activities that have been demonstrated to increase the number of youth who are placement with relatives.

Social workers are required to use due diligence in their efforts to identify, locate, and notify relatives up to the fifth degree of kinship and to include paternal relatives, with the exception of

relatives for whom a history of domestic violence has been determined. This bill adds family finding to the definition of “due diligence” and thus requires social workers and probation officers to use family finding when identifying a child’s placement and notifying missing parents and relatives in the hope that it will help increase relative placements for foster children, thereby preventing poor long-term health outcomes for the children and instead promoting a stable, healthy, and emotionally supportive family environment for them.

According to the author, “[This bill], 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. 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. The 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.”

Staff Comments: Because OFCO’s primary responsibility is to resolve complaints on or behalf of foster youth related to their care, placement, and services, requiring counties to notify the office of their family finding practices will not serve a practical policy purpose. CDSS, in its oversight role of the counties is better suited to receive the information related to each county’s family finding practices and to address any concerns or questions directly with counties if needed. Therefore, should this bill move forward, *the author may wish to consider removing any references to OFCO from the bill.*

Recommended amendments: In order to clarify that CDSS is the only entity that counties would be required to inform whether it has adopted one of the suggested practices for family finding, and how the practice has been implemented, committee staff recommends the following amendments:

- 1) *On page 11 of the bill, beginning on line 9, strike “and the Office of the State Foster Care Ombudsperson,”*
- 2) *On page 11 of the bill, beginning on line 18, strike “and the Office of the State Foster Care Ombudsperson”*
- 3) *On page 14 of the bill, beginning on line 21, strike “and the Office of the State Foster Care Ombudsperson,”*
- 4) *On page 14 of the bill, beginning on line 30, strike “and the Office of the State Foster Care Ombudsperson”*

RELATED AND PRIOR LEGISLATION:

SB 1091 (Hurtado) of 2022, requires that funds, appropriated by the Legislature for this purpose, be available to fund new or expanded family finding and engagement techniques and requires CDSS to fund contracts with community-based organizations or to provide local assistance allocations to counties or Indian tribes, or both. This bill further requires CDSS to convene a

leadership team to develop recommendations relating to family finding and engagement as provided. SB 1091 is set to be heard by this Committee on June 28, 2022.

AB 2579 (Bennet) of 2022, requires county placing agencies to implement model practices for intensive family finding and support for foster children, children detained but not adjudicated, and candidates for foster care. Requires counties to submit a plan to CDSS as a condition of receiving funding for these purposes. AB 2579 is currently awaiting a hearing by the Senate Appropriations Committee.

SB 354 (Skinner), Chapter 687, Statutes of 2021, adopted changes to the criminal background check process during the RFA process for relatives of children placed in the child welfare system. SB 354 further permitted the court to authorize placement of children with relatives in certain circumstances, regardless of the status of any criminal exemption or RFA; and, required, no later than January 1, 2024, CDSS to submit a report to the Legislature related to criminal record exemptions, as specified.

SB 1336 (Jackson), Chapter 890, Statutes of 2016, required the juvenile court to make a finding as to whether the social worker exercised due diligence in conducting their investigation to identify, locate, and notify the child's relatives, including whether specific actions were taken.

AB 1761 (Hall), Chapter 765, Statutes of 2014, clarified that the placement priority for relatives and NREFM applies both prior to the detention hearing and also after the detention hearing and prior to the dispositional hearing.

AB 2391 (Calderon) 2014, would have required the county social worker and the court, when determining whether placement with a relative is appropriate, to consider specified factors, and would have required that consideration for placement with a relative subsequent to a disposition hearing be given again without regard to whether a new placement of a child must be made. AB 2391 was referred to the Senate Judiciary Committee but was not set for hearing.

REGISTERED SUPPORT / OPPOSITION:

Support

California Judges Association (Sponsor)
County Welfare Directors Association of California (CWDA)
Juvenile Court Judges of California
National Association of Social Workers, California Chapter

Opposition

None on file

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