

ASSEMBLY THIRD READING

AB 273 (Ramos)

As Amended March 15, 2023

Majority vote

SUMMARY

Imposes specific requirements on social workers, probation officers, and juvenile courts when foster youth are missing from foster care to notify the youth's family and support systems about court hearings; safely return the youth to their placements; and further protect these vulnerable youth.

Major Provisions

- 1) Requires, when a social worker receives information that a child receiving child welfare services is absent from foster care, the social worker to do all of the following:
 - a) Engage in ongoing and intensive due diligence efforts to locate, place, and stabilize the child receiving child welfare services who is absent from foster care.
 - b) Request a protective custody order for a child receiving child welfare services who is a minor or file a missing person's report in the case of a child receiving child welfare services who is a nonminor dependent.
 - c) Request that the juvenile court schedule a hearing to review the placement and intensive due diligence efforts to locate and return the child receiving child welfare services who is absent from foster care in no case later than ten calendar days.
 - d) As soon as possible and at least five court days before the hearing described in 3), below, notify all of the following persons whose whereabouts are known about the hearing. In the event that the hearing is set to occur in less than five court days, notice shall be given at least 24 hours prior to the hearing:
 - i) The child's parents, unless such notification has been limited or terminated by the court.
 - ii) The child's legal guardians, unless such notification has been limited or terminated by the court.
 - iii) The attorney for the parents or legal guardians, if applicable.
 - iv) The child's attorney of record.
 - v) The court of jurisdiction.
 - vi) The child's tribe or tribal representative, if the child is an Indian child.
 - vii) Any known sibling of the child who is required to be notified of a hearing pursuant to existing law.
 - viii) The child's Court-Appointed Special Advocate, if one has been appointed.

- e) Prepare, submit, and serve a report at the hearing and any subsequent hearings describing their ongoing and intensive due diligence efforts to locate, place, and stabilize the child receiving welfare services, and comply with this subdivision and all other requirements of existing law.
 - i) To the extent possible, the social worker shall work to address the factors that contributed to the child receiving child welfare services being absent from care in subsequent placements with the child and family team.
 - ii) Information gathered for purposes of preparing the report shall be used for purposes of determining treatment needs, developing case plans to support the child receiving welfare services.
 - iii) Unless otherwise required by law, the information disclosed by the child receiving welfare services shall not be used as the basis for terminating the dependency jurisdiction of the court, filing a petition pursuant to Section 602, detaining the child in juvenile hall including for their own safety or for purposes of securing treatment or services, or for any purpose other than tailoring services for the child receiving welfare services.
- f) Upon the return to foster care of the child receiving child welfare services, conduct an in-person interview with the child immediately and do the following no later than twenty-four hours after knowing of the child's return:
 - i) Assess and make a plan to address the immediate needs of the child.
 - ii) Document the reasons why the child was absent from care and the experiences of the child while absent.
 - iii) Assess the appropriate placement of the child upon their return.
- 2) Requires the clerk of the juvenile court, upon being notified by the social worker that a child receiving child welfare services is absent from foster care, to set the matter for hearing on the court's hearing calendar as soon as possible and no later than ten court days from the date of such notice.
- 3) Requires the court to continue to periodically review the case of a child receiving child welfare services who is absent from foster care at least every 30 calendar days, in accordance with this section, until the child returns from being absent from foster care.

COMMENTS

This bill, co-sponsored by Yurok Tribe and California Tribal Families Coalition, seeks to address the problem of foster children and nonminor dependents who go missing from foster care to ensure that these youth are located, returned to safe homes, and supported (including by being screened for involvement in sex trafficking) as soon as possible. According to the author and co-sponsors, existing law requires county child welfare agencies and probation departments to develop and implement specific protocols to quickly locate children who are missing from foster care. However, according to the author and co-sponsors, county practices are routinely out of compliance with both federal and state law, as well as the minimum standards guidance of the

California Department of Social Services (CDSS). They also observe that in current practice, notification does not include the child's tribe/tribal representative or parents.

Missing and Exploited Children – Connection to Child Sex Trafficking. In 2020, the National Center for Missing and Exploited Children received more than 17,000 reports of possible child sex trafficking. (U.S. Department of Health and Human Services (DHHS), Office of Inspector General (OIG), "In Five States, There Was No Evidence That Many Children in Foster Care Had a Screening for Sex Trafficking When They Returned After Going Missing" (07-05-2022) OEI-07-19-00371 (hereafter "OIG Report"), available at <https://oig.hhs.gov/oei/reports/OEI-07-19-00371.asp>.) According to the OIG for DHHS, "traffickers are known to prey on vulnerable children with low self-esteem and minimal social support, and histories of abuse, neglect, and trauma-traits that are common among children in foster care."

Tribal and native children are at especially high risk of exploitation. For them, going missing or running away while in foster care is a pipeline to the disproportionately high rates of violence and exploitation that is experienced by Native Americans, especially Native American women and youth. National data shows that 85% of all missing Indigenous children over a ten-year period were endangered runaways. Nationally, American Indian or Alaska Native children had the highest rate of victimization at 14.8 per 1,000 children in the population of the same race or ethnicity (Child Welfare Information Gateway, 2021). Within the United States, California has emerged as a magnet for commercial sexual exploitation of children (CSEC). The FBI has determined that three of the nation's thirteen High Intensity Child Exploitation areas are in California: the San Francisco, Los Angeles, and San Diego metropolitan areas. (See California Child Welfare Council, "Ending the Commercial Sexual Exploitation of Children" (June 2017), Page 1; available at <https://www.chhs.ca.gov/wp-content/uploads/2017/06/Committees/California-Child-Welfare-Council/Council-Information-Reports/Ending-CSEC-A-Call-for-Multi-System-Collaboration-in-CA-February-2013.pdf>.)

This bill. The bill seeks to bring county practices into compliance with both federal and state law, as well as the minimum standards guidance of the CDSS, by enacting several specific requirements for social workers (and in some cases, probation officers) to locate and return children who receive welfare services to foster care when they are missing and at risk, and for courts to review the continuing efforts to return, stabilize, and protect those children. The bill's requirements fall into three general categories:

Notification that the child is missing from foster care. While current law requires county welfare departments to adopt policies that require a number of actions when a social worker determines that a child is missing from foster care, the policies do not specifically require that law enforcement, the court with jurisdiction over the child, the child's family, the child's attorney, and the child's tribe or tribal representative (if applicable) are notified. Nor does the law provide a timeline for when such notifications must occur. The bill in print does so.

Expedited court review of the child's case. Current law does not require the juvenile court to hold a special hearing to review the case of a child who is missing from foster care, nor does it specify timelines for doing so, other than any regularly scheduled review hearing. The bill in print would establish those requirements.

According to the Author

In continuation of addressing the Missing and Murdered Indigenous Persons Crisis (MMIP) AB 273 will build on past efforts and formalize best practices by requiring notification when

a child or non-minor dependent, or tribal and native children in foster care is missing. This bill also furthers legislative intent and helps to better protect, locate, place and stabilize children and nonminor dependents when they go missing while in foster care.

Arguments in Support

The California Tribal Families Coalition, sponsor of the bill, writes the following about why the bill will protect missing foster youth:

AB 273 (Ramos) will protect not only Native foster children, but all foster children by creating a more family-centered and child-focused process to locate, return, and stabilize children and youth who go missing while in the care, custody, and control of the child welfare system. Current state law requires county child welfare agencies and probation departments to develop and implement specific protocols to quickly locate any child missing from foster care. However, county practices are routinely out of compliance with federal and state laws, including the California Department of Social Services (CDSS) minimum standards guidance.

The bill creates a more inclusive notification protocol when a child goes missing from care and creates a stronger oversight role for the courts. It gives the court with jurisdiction over a child a real-time opportunity to assess whether the current placement is in fact safe for the child before the child is returned there, and it reduces the recurrence of abuse and sexual exploitation, which current federal and state laws were enacted to combat.

Arguments in Opposition

No opposition on file.

FISCAL COMMENTS

According to the Assembly Appropriations analysis:

- 1) One-time costs of approximately \$800,000 to \$1 million (General Fund) to CDSS for case management system updates. County social workers report information about foster care youth to CDSS using a statewide case management system. CDSS anticipates updating its case management system to ensure compliance with the new duties required by this bill. Additional one-time costs to CDSS for staffing to update its model policies and procedures as required by the bill.
- 2) Workload cost pressures in the hundreds of thousands of dollars annually (Trial Court Trust Fund, General Fund) for juvenile courts to hold the hearings required by this bill. Using data on missing foster care children from CDSS and the National Center for Missing and Exploited Children, Judicial Council estimates this bill would result in approximately 1,400 additional juvenile court hearings each year. Costs will depend on the length of hearings required. If funding is not provided for the new workload created by this bill, it may result in delays and prioritization of court cases. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund.
- 3) Significant reimbursable costs (General Fund, Prop 30, local funds) of an unknown amount due to the additional responsibilities for social workers and probation officers created by this bill. County social services agencies' costs may be reimbursable to the extent determined by

the Commission on State Mandates. County probation costs may be reimbursable due to Proposition 30, which provided that any legislation enacted after September 30, 2012 that has an overall effect of increasing costs already borne by a local agency for programs or levels of service mandated by realignment applies to local agencies only to the extent the state provides annual funding for the cost increase. Proposition 30 has not been litigated and it is unclear what constitutes a reimbursable state-mandated local program pursuant to Proposition 30.

VOTES**ASM JUDICIARY: 11-0-0**

YES: Maienschein, Essayli, Connolly, Dixon, Haney, Kalra, Pacheco, Papan, Reyes, Robert Rivas, Sanchez

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Ortega

ABS, ABST OR NV: Robert Rivas

UPDATED

VERSION: March 15, 2023

CONSULTANT: Alison Merrilees / JUD. / (916) 319-2334

FN: 0000723