
SENATE COMMITTEE ON HUMAN SERVICES

Senator Alvarado-Gil, Chair

2023 - 2024 Regular

Bill No: AB 273
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Consultant: Bridgett Hankerson
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Subject: Foster care: missing children and nonminor dependents

SUMMARY

This bill imposes specific requirements on social workers, probation officers, and juvenile courts when foster youth and nonminor dependents (NMDs) 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 to further protect these vulnerable youth.

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 specific 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) Provides that the court may have within its jurisdiction any NMD between the age of majority and 21 years, as defined. Further requires that a NMD retain all of their legal decision-making authority as an adult, except as specified. (*WIC 303(a), (d)*)
- 4) Requires the status of every minor or NMD in foster care to be reviewed by the court at least once every six months, as specified. (*WIC 366*)
- 5) Requires any social worker in a county welfare department, or in an Indian tribe that has entered into an agreement pursuant to other provisions of law while acting within the scope of their regular duties under the direction of the juvenile court to take into and maintain temporary custody of, without a warrant, a child who has been declared a dependent child of the juvenile court or who the social worker has reasonable cause to believe has an immediate need for medical care or is in immediate danger of physical or

sexual abuse or the physical environment poses an immediate threat to the child's health or safety. (*WIC 306*)

- 6) Requires county child welfare agencies and probation departments to implement policies and procedures related to identification of and provision of services to sexually exploited children, as specified. (*WIC 16501.35*)
- 7) Allows a county to require a resource family or applicant to receive relevant specialized training for the purpose of preparing them to meet the needs of a particular child in care, such as understanding how to use best practices for providing care and supervision to: commercially sexually exploited children; children who are lesbian, gay, bisexual, and transgender; and non-minor dependents, among others. (*WIC 16519.5 (h)*)
- 8) Establishes the Commercially Sexually Exploited Children's Program (CSEC) to provide funding to counties that elect to participate in the program for the provision of training to county children's service workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation and trafficking, and to foster caregivers for the prevention and identification of potential victims. (*WIC 16524.7*)
- 9) Establishes the "Human Trafficking Victims Assistance Fund" in order to provide grants to support programs that assist victims of human trafficking. (*GC 8590.7 (a)*)
- 10) Requires all local police and sheriffs' departments to accept reports of missing persons without delay. Further required policy or sheriff's departments, if the missing person is under 21 years of age, or is determined to be at risk, to broadcast a "Be on the Lookout" bulletin and to transmit the report to the Department of Justice (DOJ), as provided. (*PC 14211*)
- 11) Defines "commercially sexually exploited children (CSEC)" as children who are sexually trafficked or receive food or shelter in exchange for the performance of certain sexual acts, as specified. (*WIC 300*)
- 12) Defines a "nonminor dependent (NMD)" as a current or former foster youth who is between 18 and 21 years old, in foster care under the responsibility of the county welfare department (CWD), county probation department, or Indian Tribe, and participating in a transitional independent living plan, as specified. (*WIC 11400(v)*)

This Bill:

- 1) Makes numerous Legislative findings and declarations including that the release of a 2022 audit by the United States Department of Health and Human Services (HHS) Office of Inspector General (OIG) showed that there are several barriers and other deficiencies in California agencies' policies and procedures related to missing foster youth.
- 2) Provides it is the intent of the Legislature to create stronger protections and increase judicial oversight for youth who are missing from foster care in order to expeditiously locate them when they are absent from foster care, improve outcomes for missing foster youth, and reduce the number of instances of missing foster youth, as specified.

- 3) Requires, when a social worker receives information that a child or NMD who is 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 NMD.
 - 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 3c) above or at least 24 hours prior if the hearing is set to occur in less than five court days notify all of the following persons whose whereabouts are known about 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, as specified.
 - 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 must 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 must 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 will not be used as the basis for terminating the dependency jurisdiction of the court, filing a 602 petition, 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 child's return to foster care, 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.
- 4) Requires the clerk of the juvenile court, upon being notified by the social worker or probation officer 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.
- 5) 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, until the child returns from being absent from foster care, as specified.
- 6) Stipulates that the court is not prohibited from reviewing the placement of a child or ward of the juvenile court, and the ongoing intensive due diligence efforts to locate, stabilize and return the child at a regularly scheduled hearing, if that hearing is held within the timeline established in 5) above.
- 7) Requires the court to consider the safety of the child receiving child welfare services absent from foster care and to determine both of the following:
 - a. The extent of the activities and compliance of the county with the case plan in making ongoing and intensive due diligence efforts to locate and return the child to a safe placement. If it is known, or there is reason to know, that the child receiving child welfare services is an Indian child, the court must also determine whether the county

- has made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, as specified.
- b. The continuing necessity for and appropriateness of the placement when the child receiving child welfare services returns from being absent from foster care.
- 8) Duplicates, in a new section of the Welfare and Institutions Code that deals with juvenile wards and youth who are involved with child welfare and probation, all of the above provisions, making them applicable to dual status youth and the social workers and probation officers who work with those youth.
 - 9) Requires the California Department of Social Services (CDSS) by June 1, 2024, in consultation with the same stakeholders with whom CDSS was required to consult on the development of model policies and procedures, in addition to “tribes in California”, to enact updated model policies and procedures regarding the identification of children receiving child welfare services who are, or are at risk of becoming, victims of commercial sexual exploitation and support for those youth described above in 8), as specified.
 - 10) Defines the following terms:
 - a. “Absent from foster care” to mean when the whereabouts of a child receiving child welfare services is unknown to the county child welfare agency or probation department or when the county child welfare agency or probation department has located the child receiving child welfare services in a location not approved by the court that may pose a risk to the child receiving child welfare services, taking into account the age, intelligence, mental functioning, and physical condition of the child.
 - b. “Child receiving child welfare services” to mean a child or NMD placed in a foster care placement or in the home of an emergency, and includes dependents, NMD, and minors who have been taken into temporary custody who are in foster care, as specified.
 - c. “Ongoing and intensive due diligence efforts” include, but are not limited to, all of the following:
 - i. Directing the caregiver to immediately contact the local law enforcement agency, as specified.
 - ii. As new information is provided and no less frequently than every seven days, contacting parents, legal guardians, nonrelative extended family members, siblings, tribal representatives, former out-of-home caregivers, relatives, current and former service providers, and others with whom the child receiving child welfare services spends time, and in consultation with the caregiver, contact neighbors, friends, current and previous schools and others with whom the child spends time.

- iii. Asking any roommates of the NMD if they know their whereabouts if the child is the NMD in a supervised independent living placement.
- iv. Initiating the protective custody warrant process within 24 hours of the time when the social worker or probation officer learns that the child, who is under 18 years of age, is absent from foster care, unless there is an objection from the attorney of the child.
- v. As new information is available, but no less frequently than every 30 calendar days to search social media accounts of the child and known acquaintances and attempt to make contact, and physically check all places where the child receiving child welfare services is likely to be located.

FISCAL IMPACT

According to the Assembly Appropriations analysis, there are 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.

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.

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.

The author of the bill submitted a budget request of \$15 million annually to fulfill the requirements of this bill.

BACKGROUND AND DISCUSSION

Purpose of the Bill:

According to the author, “Confronting the crisis of Missing and Murdered Indigenous People, the majority of whom are women and girls, has been a legislative priority since my election to the Assembly. The rates of murdered and missing people in Native American communities is a shameful state and national tragedy that does not receive the scrutiny and attention it deserves. AB 273 is one aspect of this issue as it deals with missing foster youth, especially with tribal youth. The bill works to formalize best practices by requiring notification when a child goes missing in foster care. We need to better protect, locate, place, and stabilize children when they go missing in foster care.”

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 2022, the state’s child welfare agencies received 440,212 reports of abuse or neglect. Of these, 51,806 reports contained allegations that were substantiated and 19,953 children were removed from their homes and placed into foster care via the CWS system. As of January 1, 2023, there were 52,265 children in the CWS system in California.

Missing and Exploited Children

According to a 2022 study by the United States Department of Health and Human Services (HHS) Office of Inspector General (OIG), the National Center for Missing and Exploited Children in 2020 received more than 17,000 reports of possible child sex trafficking. Sex trafficking of children means “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting a child under 18 years of age for the purpose of a commercial sex act” and may include “the exchange for money, food, shelter, and/or drugs.”¹ The OIG report notes that children in foster care who are victims of sex trafficking may be negatively impacted by multiple physical and mental health issues that can have long-lasting effects. The OIG report also notes that “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.”

Native children are at an increased risk of experiencing trafficking or exploitation. Recent studies reveal that over a 10-year period, nationally 85 percent of all missing Native children were endangered runaways. Foster children who runaway or go missing experience elevated rates of violence and exploitation, which is particularly true for Tribal and Native women and youth.

In January 2022, HHS announced the creation of the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons (Task Force). According to HHS, the Task Force, chaired by the Secretary of State, is made up of 20 agencies across the federal government and is responsible for coordinating federal efforts to combat trafficking in persons. The Task Force’s

¹ National Center for Missing and Exploited Children (NCMEC), *Child Sex Trafficking Overview*, 2021. Accessed at <http://www.missingkids.org/content/dam/missingkids/pdfs/CST%20Identification%20Resource.pdf> on November 5, 2021.

focus includes “the enforcement of criminal and labor laws to end impunity for traffickers; victim-centered identification and trauma-informed assistance; innovations in data gathering and research; education and public awareness activities; and synchronization of strategically linked foreign assistance and diplomatic engagement.”²

Federal Laws for Youth Missing From Foster Care

Enacted in 2014, the federal Preventing Sex Trafficking and Strengthening Families Act (The Act) (*Public Law (P.L.) 113-183*) was created in an effort to prevent and address sex trafficking of children in foster care. The Act required states to develop policies and procedures for the identification, documentation, and determination of appropriate services for children in the placement, care, or supervision of the state agency which believes they are, or are at risk of becoming victims of sex trafficking. The Act also requirements for states to develop policies and procedures for “expeditiously locating any child missing from foster care,” and “determining the child’s experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim.” Further, child welfare agencies must report a child missing from care to both law enforcement and National Center for Missing and Exploited Children “immediately” (not to exceed 24 hours).

The Act made a number of changes to the Title IV-E Foster Care Program, including enacting new requirements regarding: sex trafficking prevention, intervention, data collection and reporting; the reasonable and prudent parent standards; adoption incentives payments; successor guardianship, and successful adulthood. However, the focus of this bill relates to the sex trafficking prevention, intervention, data collection and reporting aspects of the law. California codified The Act’s provisions through SB 794 (*Committee on Human Services, Chapter 425, Statutes of 2015*), which included training requirements for caseworkers (i.e. county social workers and probation officers) such as identifying, documenting and determining appropriate services for a child or youth in foster care who the caseworker has reasonable cause to believe is, or at risk of becoming, a sex trafficking survivor. These requirements are also outlined in CDSS’ 2016 all county letter (ACL) 16–15.

State Policy for Runaway and Missing Children

ACL 16–15. In 2016, CDSS issued ACL 16–15 to “provide instructions regarding the policies and procedures counties are required to develop to locate and respond to youth, dependents or wards, who go missing from foster care.”³ The letter advised counties, in developing protocols, that they *should* consider the feasibility of implementing several best practices that are not required by federal law, such as dedicated units or dedicated liaisons in the county. In addition, the letter advised counties about the elements that constitute the statewide minimum standards necessary to comply with federal law. Specifically, CDSS instructed counties that they must have reporting and noticing protocols for missing children and NMD, and due diligence requirements for social workers to search for and locate missing foster children.

ACIN I–13–17. Additionally, in 2017, CDSS issued All County Information Notice (ACIN) I–13–17, entitled “Promising Practices for Youth who are Missing or Run Away from Foster

² <https://www.state.gov/humantrafficking-interagency-task-force/>

³ <https://cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2016/16-15.pdf>

Care,” which provided counties with information on promising practices to locate and respond to youth who are missing from care. ACIN I-13-17 was issued in recognition that foster youth are disproportionately more vulnerable to commercial sexual exploitation than children not in foster care. The policy recommendations in part state, “when a youth leaves care without permission, they are often running from or to something. Many youth have underlying needs that must be addressed [that] may be unmet or inadequately met in the current placement.”

Several risk factors were noted as reasons a youth may leaving their care setting without permission, including “being 13 years or older, placement instability, substance abuse, youth being upset or overly preoccupied with visitation issues, problematic ties to the community associated with run risk (e.g. gang affiliation, romantic relationships), history of juvenile delinquency, psychological factors (e.g. impulsivity, poor judgment and insight, easily influenced, thrill seeking), etc.”⁴ ACIN I-13-17 advised several ways county staff could be prepared to respond should a youth go missing or leave care. These included creating a Safety and Support Plan, so that those that have a relationship with the child, such as family, friends, etc. may be contacted if necessary to aid in finding the missing child. It also outlined other best practices county social workers and probation officers can use while the child is missing and when the child is found and/or returns back to their placement.

County child welfare and probation departments are currently allowed some latitude in the development of their policies and procedures regarding how to handle cases when a child goes missing from care, as long as they meet federal and state requirements and CDSS’ minimum standards guide. This bill seeks to codify the best practices and standards into state law by requiring the child’s social worker or probation officer, if applicable, to diligently search for them and contact those persons in the child or NMD life, including the child’s Tribe or Tribal representative, who may be able to assist in finding the child or NMD quickly, so that they remain safe. The bill also requires the social worker to notify and 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.

According to the sponsors of this bill, county practices are routinely out of compliance with federal and state statutes, and the CDSS minimum standards guidance required for compliance in All County Letter 16-15. The sponsors note that in current practice, notification does not include the child’s tribe/tribal representative or parents and court monitoring is sporadic and inconsistent. This bill seeks to codify these best practices into state law.

Related/Prior Legislation:

SB 794 (Committee on Human Services, Chapter 425, Statutes of 2015) codified the federal Preventing Sex Trafficking and Strengthening Families Act into state law, which included training requirements for caseworkers (i.e. county social workers and probation officers) such as identifying, documenting and determining appropriate services for a child or youth in foster care who the worker has reasonable cause to believe the child is, or at risk of being a victim of sex trafficking.

⁴ http://www.nrcpfc.org/fostering_connections/index.html

COMMENTS

According to the California Department of Justice website, in 2022 there were 62,200 missing children reports in the state. As Black and Indigenous children are disproportionately in the care of child welfare and/or probation systems, they are also at greater risk of experiencing exploitation if they go missing from care. According to the sponsors, this bill’s provisions 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.

While current law requires county welfare departments to adopt policies that require a number of actions when a social worker or probation officer 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. Current law also fails to provide a timeline for when such notifications must occur. This bill would require additional notifications and due diligence efforts to be made when a child or youth go missing from care.

Double Referral: This bill has been double-referred. Should this bill pass out of this Committee, it will be referred to the Senate Committee on Judiciary.

PRIOR VOTES

Assembly Floor:	78 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Judiciary Committee:	11 - 0

POSITIONS

Support:

- Alliance for Children's Rights (Co-Sponsor)
- California Tribal Families Coalition (Co-Sponsor)
- ACLU California Action
- Alliance of Child and Family Services
- Bakersfield American Indian Health Project
- California Alliance of Caregivers
- California Coalition for Youth
- California Partnership to End Domestic Violence
- National Association of Social Workers, California Chapter
- Pit River Tribe
- Public Counsel

Oppose:

None received

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