
THIRD READING

Bill No: AB 273
Author: Ramos (D), et al.
Amended: 9/1/23 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/19/23
AYES: Alvarado-Gil, Ochoa Bogh, Hurtado, Menjivar, Wahab

SENATE JUDICIARY COMMITTEE: 11-0, 7/6/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello,
Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 78-0, 5/25/23 - See last page for vote

SUBJECT: Foster care: missing children and nonminor dependents

SOURCE: Alliance for Children's Rights
California Tribal Families Coalition

DIGEST: This bill updates and expands the requirements on social workers, probation officers, and juvenile courts when foster youth and nonminor dependents (NMDs) are missing from foster care.

ANALYSIS:

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 NMDs 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*)

This bill:

- 1) Creates the Luke Madrigal Act.
- 2) 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, as provided.
 - b) Request through the county counsel that the juvenile court schedule a hearing within 10 court days to review the placement and the ongoing and intensive due diligence efforts to locate and return the child receiving child welfare services who is absent from foster care.

- c) Request the hearing on the date they learn of the absence or if the court is closed, on the first court day thereafter.
- d) Provides that the hearing may be rescinded upon stipulation by all parties if the minor or NMD is found prior to the hearing or if the hearing coincides with a previously scheduled hearing in the case that it falls within the 10 court days.
- e) As soon as possible and at least five court days before the hearing described in 3b) above, 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 receiving child welfare services attorney or attorneys of record.
 - v) The child's tribe or tribal representative, if the child is an Indian child, as specified.
 - vi) Any known sibling of the child who is required to be notified of a hearing pursuant to existing law.
 - vii) The child's Court-Appointed Special Advocate, if one has been appointed.
- f) 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, and as provided.
- g) Work to address the factors that contributed to the child receiving child welfare services becoming absent from care with the child and family team.
- h) Seek the input of the child and family team to discuss the factors that are contributing to the child being absent from care and develop appropriate

plans to stabilize the placement or change the placement, if the absence from care is habitual and an ongoing occurrence.

- i) Requires information gathered for purposes of preparing the court report to be used for purposes of determining treatment needs, developing case plans to support the child receiving welfare services.
 - ii) Prohibits, unless otherwise required by law, the information disclosed by the child receiving welfare services from being 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.
- 3) Requires the social worker, upon the child receiving child welfare services who was the subject of the protective custody warrant or missing person's report return to foster care, to do both of the following:
- a) Immediately, and no later than twenty-four hours after learning of the child's return, assess and make a plan to address the immediate needs of the child receiving child welfare services.
 - b) Within three business days, conduct an in-person interview with the child receiving child welfare services.
 - i) Document the reasons why the child was absent from care and the experiences of the child while absent.
 - ii) Assess the appropriate placement of the child upon their return.
 - iii) Request the recall of any protective custody warrant request, as provided and specifies that the social worker or probation officer is not required to detain any child as described above section pending recall of a warrant.
- 4) Requires the county counsel, upon being notified that a child receiving child welfare services is absent from foster care, for the clerk of the juvenile court 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) Permits the hearing in 4) above to be rescinded upon stipulation by all parties if the child receiving child welfare services, who is the subject of a protective

custody warrant or missing person's report is located and returned to foster care prior to the hearing.

- 6) 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.
- 7) 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 6) above.
- 8) 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.
- 9) 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.
- 10) 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 9), as specified.

- 11) Requires county child welfare agencies and probation departments to implement the above changes to their protocols to locate any child or NMD absent from foster care by no later than January 1, 2025.
- 12) Defines “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.
- 13) Defines “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.
- 14) Defines “ongoing and intensive due diligence efforts” must include, but are not limited to, all of the following:
 - a) Immediately, and no later than 24 hours after learning of the absence from foster care for a child receiving child welfare services, do all of the following:
 - i) Request a protective custody warrant for a child receiving child welfare services who is under 18 years of age, unless there is an objection from the attorney of the child receiving child welfare services.
 - ii) Directing the caregiver to immediately contact the local law enforcement agency, if such action is warranted, as specified.
 - iii) File a missing person’s report with local law enforcement for a child receiving child welfare services who is a NMD in a supervised independent living placement, if such action is warranted.
 - iv) Report to the National Center for Missing and Exploited Children pursuant to the requirements as required under current state law.
 - b) As new information is provided and no less frequently than every seven days, contacting individuals known to the child or NMD to inquire if they know their whereabouts, including, but not limited to, parents, legal guardians, nonrelative extended family members, siblings, tribal

representatives, former out-of-home caregivers, relatives, current and former service providers.

- i) Permits the child welfare agency to contact others with whom the child receiving child welfare services spends time, and in consultation with the caregiver, contact neighbors, friends, roommates, current and previous schools and others with whom the child spends time without disclosing confidential information.

- c) As new information is available, but no less frequently than every 30 calendar days to both search social media accounts of the child or NMD and known acquaintances who may have information about their whereabouts and attempt to make contact with the child or NMD; and physically check all places where the child receiving child welfare services is known to frequent or where the social worker or probation officer has been informed the child may be located.

Comments

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.”

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.

[NOTE: Please see the Senate Human Services Committee analysis or Senate Judiciary Committee analysis for more detailed background information on this bill.]

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee

- One-time General Fund automation costs, likely hundreds of thousands in 2023-24, for the Child Welfare Services California Automated Response and Engagement System (CARES).
- Unknown ongoing local costs, likely millions (General Fund and federal funds), for county welfare departments for social worker resources to conduct the required activities. Unknown General Fund costs to county probation departments for probation officers to conduct the required activities. To the extent the bill increases county costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment, the bill would apply to local agencies only to the extent that the state provides annual funding for the cost increases.
- Ongoing General Fund cost pressures, likely hundreds of thousands, for additional court workload. Although courts are not funded on the basis of workload, if funding is not provided for the new workload created by this bill, it may result in delays and prioritization of court cases.

SUPPORT: (Verified 9/2/23)

Alliance for Children's Rights (co-source)
California Tribal Families Coalition (co-source)
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

OPPOSITION: (Verified 9/2/23)

None received

ASSEMBLY FLOOR: 78-0, 5/25/23

AYES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO VOTE RECORDED: Aguiar-Curry, Mathis

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
9/4/23 9:26:43

**** END ****