

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 3217 (Bryan) – As Amended April 4, 2024

SUBJECT: Juveniles: Justice Through Placing Foster Children with Families Act

SUMMARY: Requires each county to review annual data comparing the statewide average rate of foster youth placed with relatives, for comparison with the county's placement rate. Requires the county welfare director, if a county's rate is less than the statewide average, to communicate with counties with the highest placement rates to compare best practices. Further requires, if a county has a rate of placing children with relatives below the statewide average, the board of supervisors to include the topic for discussion on the agenda of a board meeting. Specifically, **this bill:**

- 1) Requires each county, by January 30 of each year, to review publicly available data comparing the statewide average rate of placing children with relatives in the prior year and, in the case of Indian children, the statewide average rate of placing children according to the Indian Child Welfare Act (ICWA) placement preferences, for comparison with the county's placement rate during the same period.
- 2) Requires, if the county's rate is less than the statewide average, the county welfare director, or their designee, no later than December 1, to communicate at least once with the county welfare directors of the three counties with the highest placement rates or their designees to compare best practices for family finding.
- 3) Specifies that communication includes email, video conference, or phone call.
- 4) Requires, if each year that, based on publicly available data, a county has a rate of placing children with relatives that is less than the statewide average, or, in the case of Indian children, placing children according to ICWA, the county board of supervisors to, at least once, include the topic for discussion on the agenda of a regularly noticed meeting of the full board.
- 5) Makes findings and declarations related to the racial and ethnic disproportionality that exists within the foster care system among Black and Native American children in California and the recommendation to consistently review data to understand what can be changed to better support kinship families.

EXISTING LAW:

State 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 legislative intent 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)
- 3) 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))
- 4) Requires the social worker to use due diligence in investigating the names and locations of the relatives and requires each county to do both of the following:
 - a) Create and make public a procedure by which a parent and relatives of a child who has been removed from their parents or guardians may identify themselves to the county;
 - b) Notify the California Department of Social Services (CDSS), in an email or other correspondence, whether it has adopted one of the suggested practices for family finding described in All-County Letter (ACL) No. 18-42 and, generally, whether the practice has been implemented through training, memoranda, manuals, or comparable documents. Specifies that if a county has not adopted one of the suggested practices for family finding described in ACL No. 18-42, the county is required to provide a copy to CDSS of its existing family finding policies and practices, as reflected in memoranda, handbooks, manuals, training manuals, or any other document. (WIC § 309(e)(3)(A))
- 5) Specifies due diligence shall include "family finding," which means 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, "family finding" also includes contacting the Indian child's tribe to identify relatives and kin. (WIC § 309(e)(3)(B))
- 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) Establishes the “Center for Excellence in Family Finding, Engagement, and Support Programs” to provide, or contract for the provision of, multi-tiered, culturally appropriate training and technical assistance to county child welfare and probation departments, participating tribes, and foster care providers to enhance their practices, policies, and efforts for family finding, support, and engagement. (WIC §§ 16546-16549)

Federal law:

- 11) Establishes ICWA, which provides guidance to states regarding the jurisdictional requirements, proceedings of tribal courts, and custody proceedings involving the removal of Indian children from their parents. (25 United States Code [U.S.C.] §§ 1901 *et seq.*)
- 12) Defines an “Indian child” to mean any unmarried person who is under 18 years of age and is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. (25 U.S.C. §§ 1901 *et seq.*)
- 13) Establishes the federal foster care program, authorized by Title IV-E of the Social Security Act, to allow states to provide safe and stable out-of-home care for children who meet certain eligibility requirements until they are safely returned home, placed permanently with adoptive families, or placed in other planned, permanent living arrangements. (42 U.S.C. § 471(a)(2))

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background: *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 child welfare services 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.

Family Finding and Due Diligence. It has long been the goal of the child welfare services 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 child

welfare services 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 reveals a wide discrepancy in relative placement rates across counties in California. While the state average is 34%, Los Angeles County, which has one-third of California's foster youth population, has a relative placement rate of 40%. Orange County places 47% of foster youth with relatives, Alameda County stands at 34%, and San Diego County at 30%. Sacramento County, with 22%, has the lowest placement rate with relatives among all counties and is not only lower than the state average, it is also significantly lower than the national average of 35.5%.

This bill will require the director of any county welfare agency with a relative placement rate that is less than the statewide average to confer about best practices with the county welfare directors of the counties with the top three placement rates. Counties with below average rates will also be required to agendize the matter for board discussion at least once a year.

According to ACL No. 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. As of January 1, 2017, all new relative home placements were required to meet Resource Family Approval (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.

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 would additionally require counties by January 30 of each year, to review data comparing the statewide average of relative placement in the prior year with their own county's relative placement rate. This additional requirement adds an element of accountability to the requirements for counties to

use due diligence in their efforts to place foster youth with relatives by also requiring each county to compare their relative placement rates against the statewide average.

Center for Excellence in Family Finding, Engagement, and Support. As a result of AB 207, (Committee on Budget), Chapter 573, Statutes of 2022, CDSS contracted with the University of California, Davis to launch the Center for Excellence in Family Finding, Engagement, and Support (CFE) to support efforts to keep children and youth connected to their biological and extended families. The CFE was designed to provide multi-tiered, culturally appropriate training and technical assistance, such as conducting evidence-based, organization-specific assessments of implementation activities, and strengthening trauma-informed practices and programs related to family finding and engagement.

The Excellence in Family Finding, Engagement, and Support (EFFES) is an opt-in program offered through the CFE. The CFE will provide training and technical assistance for counties and Tribes that have opted to participate in the EFFES program. Specialized trainings and support will be available to county welfare agencies, probation departments, participating tribes, and foster care providers to enhance their practices, policies, and efforts for family finding, support, and engagement. The CFE will also provide training on how to engage children and young people in the family finding process utilizing family finding and engagement and permanency subject matter experts.

According to ACL No. 23-12, CDSS states that the EFFES Program activities include any of the following activities:

- Training of staff on family finding and engagement practices, and models approved by CDSS, in consultation with counties, stakeholders, and the advisory committee;
- Staffing and tools to identify, locate, and engage persons related to the child by blood or marriage, identification, and engagement of other family-like relationships, and in the case of an Indian child, to make active efforts to engage with the tribe to determine the child's extended family members;
- Outreach and engagement of the child and family team members and all other current and prior service providers, case managers, and other connections to the foster child, to identify and engage possible family and family-like connections;
- Plan development and case management for the child, family, and family-like connections to identify and address any barriers to establishing or reestablishing positive, loving, and supportive relationships. Counties and participating Tribes shall engage children continuously in plan development, case planning, and services of importance to the child; and,
- Implementation of model programs, strategies, or promising practices identified by CDSS in consultation with Tribes, the County Welfare Directors Association, Chief Probation Officers of California, and child and youth advocacy organizations. The model programs, strategies, or promising practices include, but are not limited to, model programs, strategies, or promising practices that focus on upfront family finding and engagement and that focus on family finding and engagement techniques to find permanent families and relationships for foster children who have been in out-of-home foster care for 24 months or longer, who are

not living with a relative, for whom reunification is no longer in the case plan, and who have not been placed with a family who is in the process of adopting them or assuming guardianship over them.

Author’s Statement: According to the Author, “Numerous studies over the years have shown that placing foster youth with loved ones leads to far better outcomes for that youth. Two years ago, our state made a \$150 million investment for the Excellence in Family Finding, Engagement, and Support Program. [This bill] is a simple measure that will ensure that counties that are falling behind in family placement rates are aware of the resources and guidance available to them and pursue best practices to ensure that young people in foster care are placed with loved ones, rather than strangers, in times of instability and trauma.”

Equity Implications: Research indicates that by improving relative placement rates in California, outcomes for all children and families, and in particular, Black children and families who are overrepresented in the foster care system, will also improve. According to the Legislative Analyst Office (LAO) in a March 2022 publication, the proportions of Black and Native American youth in foster care are around four times larger than the proportions of Black and Native American youth in California overall. In addition, recent research on cumulative child welfare involvement of California’s 1999 birth cohort found nearly one in two Black and Native American children experienced some level of child welfare involvement by the time they turned 18 years of age (compared to around 29% of Latino children, 22% of White children, and 13% of Asian/Pacific Islander children). The LAO states that this same research also found that California children with public insurance (Medi-Cal) experienced child welfare involvement at more than twice the rate of those with private insurance. Because of the disproportionality across all aspects of the child welfare system - not just in foster care - but also child protective services involvement, prioritizing placement of a foster youth with their family members or other responsible adults who are known to the child has been seen as a way to address this issue by ensuring that these vulnerable youth are placed with family when possible.

RELATED AND PRIOR LEGISLATION:

AB 2929 (Juan Carrillo), of the current legislative session, requires courts and social workers to consider, in status review hearings and supplemental reports, respectively, whether appropriate efforts have been made to locate family members who could support or accept placement of a foster child or non-minor dependent. *AB 2929 is pending before this committee and will be set for a hearing on April 23, 2023.*

AB 448 (Juan Carrillo) of 2023, would have required a social worker and/or probation officer to immediately conduct, but no later than 30 days after the child had been removed, an investigation in order to identify and locate all relatives of the child, and to document their efforts to the court, and in the case of an Indian child, the active efforts and results of those efforts to locate relatives or kin. AB 448 would have also added requirements for social workers and probation officers to document their efforts and results to locate any relatives or kin who could provide family support or possible placement of the child or nonminor dependent. *AB 448 was vetoed by Governor Newsom due to cost.*

SB 1091 (Hurtado) of 2022, would have required that funds, appropriated by the Legislature for this purpose, be available to fund new or expanded family finding and engagement techniques and would have required CDSS to fund contracts with community-based organizations or to

provide local assistance allocations to counties or Indian tribes, or both. SB 1098 would have further required CDSS to convene a leadership team to develop recommendations relating to family finding and engagement. *SB 1091 was referred to the Assembly Appropriations Committee but the hearing was canceled at the request of the Author.*

AB 2579 (Bennet) of 2022, would have required 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. AB 2579 would have also required counties to submit a plan to CDSS as a condition of receiving funding for these purposes. *AB 2579 was held on Senate Appropriations Committee suspense file.*

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) of 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

Childrens Advocacy Institute (Sponsor)
Black Women Organized for Political Action (BWOPA)
Black Youth Leadership Project
Children Now
Dependency Legal Services
Justice2Jobs Coalition
NAACP Merced Chapter
Pale Blue.

Opposition

County Welfare Directors Association of California

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