

ASSEMBLY THIRD READING

AB 369 (Zbur)

As Amended May 18, 2023

Majority vote

SUMMARY

Expands, for counties that opt in, the upper age eligibility of the Independent Living Program (ILP) from up to 21-years old, to include youth up to 23-years old. Removes the reference to a \$10,000 limit on the amount of cash savings a foster youth is permitted to accrue in order to receive aid in the form of federal Aid to Families with Dependent Children-Foster Care (AFDC-FC).

Major Provisions

- 1) Requires the California Department of Social Services (CDSS), with the approval of the federal government, to amend the foster care state plan and the child welfare services state plan to allow all eligible youth up to 23 years old to be served by the ILP, in counties that opt to provide ILP services to eligible children up to 23 years of age.
- 2) Requires CDSS, by June 30, 2025, to develop a plan in consultation with county ILP administrators, placement agencies, providers, advocacy groups, tribal representatives, and community groups, including young people with experience in foster care, to update and upgrade curriculum to facilitate successful transitions to adulthood, increase consistency across counties, and ensure the curriculum is trauma-informed and culturally relevant for all eligible young people, while retaining some flexibility in services and supports delivered by local ILPs based on the needs of current and former foster youth and nonminor dependents (NMDs) served by ILPs.
- 3) Strikes reference to the \$10,000 limit on the amount of cash savings foster youth who are participating in a transitional independent living case plan (TILP) are permitted to retain in order to be eligible to receive aid in the form of federal Aid to Families with Dependent Children (AFDC).
- 4) Clarifies that resources are not to be evaluated after the initial determination for the same foster care episode to determine continued eligibility for a foster care maintenance payment.
- 5) Establishes eligibility for an NMD who reenters foster care to receive AFDC-FC if all other specified criteria are met.
- 6) Makes findings and declarations related to the ILP services intended to help eligible transition-aged foster youth build daily living skills, including financial management, educational support, employment assistance, mentoring, and preventive health activities to aid in the transition to adulthood, while noting that California has not availed itself of the option to extend ILP to former foster youth up to 23 years of age.
- 7) States legislative intent to ensure that services and supports that assist transition age youth in attaining their education and employment goals are trauma informed, relevant, and timely in order to facilitate their transition to successful adulthood from foster care.

COMMENTS

Child Welfare Services (CWS). California's CWS programs are administered by the 58 individual counties with each county organizing and operating its own program of child protection based on local needs while adhering to state and federal regulations. When a child welfare case is open, counties are the primary governmental entity interacting with children and families when addressing issues of child abuse and neglect and are responsible, either directly or through providers, for obtaining or providing the interventions and relevant services to protect children and assist families with issues related to child abuse and neglect. CDSS secures federal funding to support CWS programs, provides statewide best practices training for social workers, and conducts program regulatory oversight and administration, and is responsible for the development of policy while also providing direct services such as adoption placements.

As of October 1, 2022, there were 53,371 youth between the ages of zero and 21 in foster care. Below are the outcomes for NMDs exiting foster care, who could potentially be served by an expanded ILP, broken down by quarter for the age range 20 to 21:

- October 2021 – December 2021 = 639
- January 2022 – March 2022 = 993
- April 2022 – June 2022 = 499
- July 2022 – September 2022 = 432
- October 2022 – December 2022 = 426

Total NMD exits from October 2021 to December 2022 = 2,989

Extended foster care. As a result of the passage of AB 12 (Beall), Chapter 559, Statutes of 2009, foster youth between the ages of 18 and 20 years of age, also known as NMDs, are eligible for extended foster care. Extended foster care is a benefit available to eligible youth to assist them to achieve self-sufficiency and includes educational opportunities, employment trainings, and supervised independent living environments.

When an NMD ages out of extended foster care at 21, state law provides for various exit requirements to ensure the youth are provided with all the necessary information to thrive in their transition to adulthood. This bill would expand the option to participate in an ILP to youth between the ages of 21 up to their 23rd birthday to ensure they have the appropriate skills to lead an independent life. This bill would allow foster youth who live in a county who opts in, and who age out of extended foster care to still participate in the ILP, even though they will technically be considered former foster youth due to their age.

Independent Living Program: The purpose of the ILP is to provide program services and activities as described in the youth's TILP to assist eligible youth to live independently. California's ILP, funded by the federal John H. Chafee Foster Care Program for Successful Transition to Adulthood, provides supportive services to transition age youth who have been in foster care. Through the ILP, youth learn about budgeting, postsecondary financial aid, and securing employment, among other relevant topics. Counties are permitted to use a portion of ILP funds for housing-related supports, including transitional housing.

Currently youth are eligible for ILP services up until their 21st birthday provided one of the following criteria is met: were/are in foster care at any time from their 16th to their 19th birthday; were/are 16 years of age up to 18 years of age and in receipt of the Kinship Guardianship Assistance Payment Program (KinGap) assistance. According to current regulations, each county is responsible for administering an ILP that allows the core services to be provided through various means consistent with each youth's goals, as outlined in their TILP. These services can originate from the county, a contractor, social works or other organizations that have programs geared toward helping youth gain the skills needed to be successful in adulthood.

While this bill aims to increase consistency across counties among the different services and supports, the ILP is a voluntary program for eligible youth, so it is not the expectation that all eligible youth will choose to receive their services through participation in the county-offered ILP. As of February 15, 2022, the federal Administration of Children and Families (ACF) reported 34 states and territories opted into increasing the age for ILP up to age 23. This bill allows counties the option to serve an expanded number of eligible youth up to age 23.

Foster care payments and eligibility determinations. AFDC-FC is the aid provided on behalf of needy children in foster care who meet the eligibility requirements as specified in department regulations and in applicable state and federal laws. Under AFDC-FC, counties provide payments to foster care providers on behalf of qualified children in foster care according to a schedule of basic rates, administered by CDSS, to pay for the care and supervision of each foster child.

Funding to provide for the needs of youth in California's foster care system is provided by either the state or federal government. In order to be eligible for the federal AFDC, also referred to as Title IV-E funding, the home from which a foster youth was removed must meet AFDC eligibility criteria from 1996. Because the criteria to receive federal AFDC funding is rarely met, California created AFDC-FC, which blends state and county funds to provide for youth who are otherwise ineligible for AFDC.

Current law in the Welfare and Institutions Code states that \$10,000 is the resources threshold for federal AFDC-FC eligibility, but advocates claim that counties have been interpreting this to mean that youth in foster care lose eligibility for all foster care payments if they exceed \$10,000 in savings when these youth are still eligible for state AFDC-FC. To clarify this provision of law, CDSS issued an All County Letter (ACL), ACL 22-16, that said, "Consistent with ACL 11-10, an eligibility redetermination is not required when a minor child or nonminor dependent (NMD) in foster care receives income or property after the initial linkage determination has been completed. In other words, if a youth in foster care receives income (e.g. through an inheritance or receipt of tribal trust fund), that income is not to be evaluated and has no impact on the youth's continued eligibility for AFDC-FC benefits."

The ACL further states that, "If a child in an authorized foster care placement is determined ineligible for a federal IV-E foster care payment for any reason (income/resources/deprivation standards), they are otherwise eligible to receive aid in the form of AFDC-FC, but without federal financial participation in the payment. Any provisions of the Manual of Policies and Procedures (MPP) conflicting with this guidance will be amended in an upcoming regulations package."

In an effort to avoid confusion, this bill strikes the reference to \$10,000 altogether.

As described by CDSS in ACL 22-16, due to a 2010 change in federal law, annual re-determinations are no longer required by ACF and, effective February 15, 2022, income and resources are not to be evaluated after the initial determination for the same foster care episode in order to determine continued eligibility for an AFDC-FC payment. ACF describes a foster care episode as a removal with one or more placement settings. A previous episode is one that has been completed by a discharge. A current episode is a removal and one or more placement settings without a discharge. This means if a foster youth exits care upon reunification or permanent placement, is discharged, and then re-enters foster care at a later date, that will be considered another episode of foster care.

This bill is placing that clarification into statute by striking the \$10,000 limit on the amount of resources a dependent or NMD is allowed to accrue in order to be eligible for AFDC-FC payments.

Equity Implications: The provisions of this bill are focused on youth in foster care, who are disproportionately people of color and identify as LGBTQ+. Children of color, and specifically Black and Native American children, continue to experience disparities at every stage of the child welfare system: maltreatment reports, investigations, case substantiations, service referrals, out-of-home placements, family reunification, termination of parental rights, and time spent in foster care.

Recent research suggests that LGBTQ+ youth are overrepresented in unstable housing and foster care and face poorer treatment while in the system and lower rates of achieving permanency, as well as bleaker outcomes after they age out, including lower educational attainment and higher odds of homelessness and financial instability.

By extending access to the ILP to former foster youth until they turn 23 years old, those who have already experienced the trauma of being removed from their homes would be granted additional time to achieve self-sufficiency through training on daily living skills, money management while being directed toward housing resources. While this additional access can potentially help all foster youth, it can have a particularly deep impact on the marginalized population within foster care as they seek stability and independence.

According to the Author

"[This bill] will support foster youth and reduce their vulnerability to homelessness by extending eligibility for Independent Living Program services, clarifying that youth can save money to help them transition into independent adulthood, and requiring the state to consider how the Program can better serve these young people."

Arguments in Support

According to co-sponsor, California Coalition for Youth, "[This bill] will ensure that there is a broader continuum of services for former foster youth by taking advantage of the federal options allowed to enhance the ILP program as well as support youth to be able to accumulate cash savings. These are critical changes to support young people and help them avoid entering homelessness."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee on May 18, 2023:

- 1) Ongoing General Fund (GF) cost pressures of an unknown amount, but potentially in the low millions of dollars annually, to expand ILP eligibility up to 23 years of age while maintaining at least the level of service currently provided by program. The state's ILP is funded through a federal grant allocation. In 2022-23, California received approximately \$16.3 million to provide ILP services to eligible youth. This bill allows counties to opt to serve an expanded number of eligible youth up to age 23, but does not impact the federal grant allocation for the program.
- 2) Estimated GF costs to CDSS in the low hundreds of thousands annually for staff to develop a plan to update and upgrade curriculum and manage the increased workload, to the extent the plan is implemented by counties, and tracking the increased caseload in CWS-CARES.
- 3) Estimated one-time GF state automation costs of an unknown amount, but likely in the low hundreds-of-thousands of dollars, for programming changes necessary to accommodate the expanded eligible population.
- 4) Estimated GF costs of an unknown amount, but potentially significant to counties that opt to provide ILP services to eligible youth up to age 23, for increased staff workload to provide services and stipends to the expanded population. Although these county costs are mandated by the state, they are not reimbursable, but instead must be paid by the state pursuant to Proposition 30 of 2012. Proposition 30 provides that legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment (including child welfare services and foster care) applies to local agencies only to the extent the state provides annual funding for the cost increase.

VOTES**ASM HUMAN SERVICES: 7-0-1**

YES: Jackson, Sanchez, Arambula, Bonta, Bryan, Calderon, Garcia

ABS, ABST OR NV: Alanis

ASM APPROPRIATIONS: 11-0-5

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

ABS, ABST OR NV: Megan Dahle, Dixon, Mathis, Robert Rivas, Sanchez

UPDATED

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CONSULTANT: Jessica Langtry / HUM. S. / (916) 319-2089

FN: 0000956