
SENATE COMMITTEE ON HUMAN SERVICES

Senator Alvarado-Gil, Chair

2023 - 2024 Regular

Bill No: AB 937
Author: McKinnor
Version: April 12, 2023
Urgency: No
Consultant: Heather Hopkins

Hearing Date: July 3, 2023
Fiscal: Yes

Subject: Dependency: family reunification services

SUMMARY

This bill requires a juvenile court to extend family reunification services past eighteen months if a parent has not been provided reasonable services.

ABSTRACT

Existing Law:

- 1) Establishes the juvenile court with jurisdiction over children who are subject to abuse or neglect. (*WIC 300 et seq*)
- 2) Establishes that the purpose of the juvenile court dependency system is the maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that the focus is on the preservation of the family, as well as the safety, protection, and physical and emotional well-being of the child. (*WIC 300.2.*)
- 3) Requires that if, at the initial hearing, the juvenile court orders a child removed from their parent or guardian due to abuse or neglect, the court to order that child welfare reunification services be provided to the family as soon as possible in order to reunify the child with their family, if appropriate. (*WIC 319(e)*)
- 4) Requires the court, at the dispositional hearing, to order a social worker to provide child welfare services to a child who has been removed from their parents' custody, and to the parents in order to support the goal of reunification, for a specified time period, except under certain circumstances. Provides that children and families in the child welfare services system should typically receive a full six months of reunification services if the child is under three years of age, and twelve months if the child is over three years of age, but that may be extended up to 18 or 24 months, as provided. (*WIC 361.5(a)*)
- 5) Provides that reunification services under 4) above, need not be provided if the court finds, by clear and convincing evidence, that specified conditions exist, including:

- a. The parent is suffering from a mental disability that renders the parent incapable of using the reunification services;
 - b. The parent has caused the death of another child through abuse or neglect;
 - c. The child or a sibling has been adjudicated a dependent as the result of physical or sexual abuse;
 - d. The parent has been convicted of a violent felony; or,
 - e. The parent has a history of drug or alcohol abuse and has failed to comply with treatment programs as provided. (*WIC 361.5(b)*)
- 6) Prevents a court from ordering reunification services for a parent in specified situations, including the situations set forth in 5) above, unless the court finds, by clear and convincing evidence, that reunification is in the child's best interest. (*WIC 361.5(c)*)
- 7) Requires the court, if a parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security (DHS), or has been deported to the parent's or guardian's country of origin, to order reasonable reunification services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, requires the court to consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations described in 4) above, and any other appropriate factors. (*WIC 361.5 (e)*)
- 8) Requires the court, in determining the content of reasonable services, to consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with the child, and to document this information in the child's case plan. Provides that the reunification services are subject to the applicable time limitations imposed in 4), above. (*WIC 361.5 (e)*)
- 9) Requires a permanency planning hearing to occur within 18 months after the date the child was originally removed from the physical custody of their parent. (*WIC 366.22(a)(1)*)
- 10) Provides that if the child is not returned to a parent or legal guardian at the permanency review hearing, the court is required to order a hearing to determine whether adoption, guardianship, or foster care is the best plan for the child. (*WIC 366.22 (a)(3)*)
- 11) Allows the court to postpone the permanency review hearing for up to six months when it is in the child's best interests to have additional services provided to any of the following: a parent or guardian making significant progress in a substance abuse treatment program;

a parent who was either a minor parent or a dependent parent at the time of the initial hearing and is making significant progress in establishing a safe home for the child's return; or a parent who was recently discharged from incarceration, institutionalization, or the custody of DHS and is making significant progress in establishing a safe home for the child's return. (*WIC 366.22(b)*)

This Bill:

- 1) Requires the court to extend reunification services past 18 months if it finds that reasonable services have not been provided to the parent or guardian.
- 2) Provides that the court is not required to extend reunification services, even if the parent or guardian has not been provided reasonable services, if the court finds by clear and convincing evidence based on competent evidence from a mental health professional that extending the time period for reunification services would be detrimental to the child. Provides that the passage of time or the child's relationship with the caregiver cannot alone be a reason for denial of further reunification services.

FISCAL IMPACT

The Assembly Appropriations Analysis identified costs (local funds, General Fund) of an unknown but potentially significant amount to county child welfare agencies. This bill allows a court, in specified circumstances, to provide a parent with six additional months of reunification services. Actual costs will depend on how frequently courts order additional provision of services, and whether individual counties provide services at no cost or require parents to pay for them. 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.

BACKGROUND AND DISCUSSION**Purpose of the Bill:**

According to the author, "AB 937 will ensure that parents are given a fair opportunity to reunify with their children by providing all parents seeking reunification services with 24 months of reunification services if courts have ruled that reunification is a detriment to the child. California must meet its obligation to its families, and this proposal would ensure that families receive the support needed to stabilize and reunify."

Child Welfare Services (CWS)

The CWS system is an essential component of the state's safety net. Social workers in each county receive reports of abuse or neglect, and work to 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 from the family 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.

After the county child welfare department becomes involved with families, approximately 12 months of services may be provided to children who are able to remain safely in their home-s while the family receives “family preservation” services. If the family receives family preservation services, the child does not come under the jurisdiction of the juvenile dependency court during this time.

If it is determined that a child cannot remain safely in the home, even with family preservation and support services, the child comes under the jurisdiction of the county’s juvenile dependency court while the family is served by a CWS system social worker. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. It is the state’s goal to reunify a foster child or youth with their biological family whenever possible. These proceedings are broken up into four different stages: jurisdiction, disposition, reunification, and permanency.

Jurisdiction is when a court determines if the allegations against the parents in the petition are true. If the court finds the allegations are not true, the child is returned and the case is dismissed. If the court finds the allegations are true, the case moves on to the disposition hearing. At this phase of the case, the court decides the details of the reunification plan. This is the plan designed to provide parents and guardians with a roadmap of what to do to have their child returned. Review hearings are held at 6-month intervals. If a child is not able to return home, the court moves to the permanency phase where a plan for the child’s future outside their parent or guardian is determined.

Reasonable Services to Parents or Guardians

A key portion of reunification services is the case plan provided to a parent or guardian that includes the reasonable services that will be provided in an effort to reunify the parent or guardian with their child(ren). This case plan differs based on the unique circumstances of each family. The reunification plan will vary in length depending on the age of the child removed. If the child is under three, the parent usually will be given only six months of services. At the six month hearing, the court will determine if the child can be returned to the parents or if the child should remain in an alternative placement and the court will move on to preparing a permanency plan for the child.

If the child that is removed is older than three, parents are generally given twelve months of reunification services. A review hearing is still held at the six month mark, as well as at the twelve month mark. At each of these hearings, the court determines if the child can be returned to the parents’ care, if reasonable services have been provided, and if the parent has made progress. If the parent has not made sufficient progress to have the child returned, the court may order an additional six months of services. Generally the eighteen-month hearing is the end of the line and the final opportunity for a child to be returned to their parent.

Generally, if a child cannot be safely returned home after the time allotted for reunification services ends, the court terminates the parental rights of the child’s parents. The child’s case plan then focuses on permanency services, in an effort to connect the child to a permanent placement through adoption or guardianship. If an adoption or guardianship is not established, a child may

remain in long-term foster care. State and federal law require the child to be placed in the least restrictive and most family like setting.

In re Michael G ruling

The Supreme Court of California, in the case *In re Michael G* (2023) 69 Cal.App.5th 1133, was presented with the question of whether a court is automatically required to extend services at the 18-month hearing if it found inadequate reunification services had been provided to the parent or guardian. The court found that while the father had been given reasonable services between the 6-month and 12-month review, he had not been provided such services between the 12-month and 18-month review. The Supreme Court held that courts were not required to extend services, even when a parent was not provided adequate reunification services. This bill is a response to that decision and would require, in circumstances where adequate reunifications services were not provided to the parent at the eighteen-month hearing, that services be continued for six months.

Related/Prior Legislation:

AB 954 (Bryan, 2023) prohibits a parent or guardian's participation in court-ordered child welfare services from being considered to be noncompliant when there is evidence they are unable to pay for a service, or that payment for a service would create an undue financial hardship. AB 954 is pending before this committee.

SB 463 (Wahab, 2023) eliminates the evidentiary presumption in juvenile court that a parent or guardian's lack of participation or progress in a treatment program endangers the child, for purposes of determining whether the child should be returned to the parent or guardian's custody. SB 463 is pending before the Assembly Human Services Committee.

AB 2866 (Cunningham, Chapter 164, Statutes of 2022) modified the standard of proof for establishing at a review hearing that a parent or guardian whose child has been removed from their physical custody was offered reasonable reunification services by raising the standard to the clear and convincing evidence standard, in order to make the standard of proof consistent with the clear and convincing evidence standard already in place for permanent placement hearings.

AB 2805 (Eggman, Chapter 356, Statutes of 2020) expanded the scope of evidence that a court may consider when determining whether to order reunification services for a young child who has been made a dependent of the juvenile court because the child suffered severe physical abuse by a parent or by any person known by the parent.

AB 1702 (Stone, Chapter 124, Statutes of 2016) provided that reunification services need not be provided when the court finds that the parent or guardian participated in, or consented to, the sexual exploitation of the child, as prescribed, except if the parent or guardian was coerced into consenting to, or participating in, the sexual exploitation of the child.

COMMENTS

Under the law, parents are to be given reasonable services in an attempt to reunify them with their children. If a court can end services and move to terminate parental rights, even when reasonable services have not been offered to parents, this creates a potentially unfair process where parents want to reunify but are not provided services needed to achieve that goal.

PRIOR VOTES

Senate Judiciary Committee:	11 - 0
Assembly Floor:	80 - 0
Assembly Appropriations Committee:	14 - 0
Assembly Judiciary Committee:	11 - 0

POSITIONS

Support:

Children's Law Center of California (Co-Sponsor)
Dependency Legal Services (Co-Sponsor)
Root & Rebound (Co-Sponsor)
Aouon Orange County
California Lawyers Association, Family Law Section
Children's Partnership, the
Dependency Advocacy Center
John Burton Advocates for Youth
National Association of Social Workers, California Chapter
Public Counsel
The Alliance for Children's Rights

Oppose:

None received

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