
SENATE COMMITTEE ON HUMAN SERVICES

Senator Becker, Chair
2025 - 2026 Regular

Bill No: AB 2304
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Consultant: Heather Hopkins
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Subject: Social workers

SUMMARY

This bill requires a social worker to secure specified medical care for a child who has been taken into temporary custody if they reasonably appear to require emergency medical or surgical care in an emergency. Specifies that county social workers who are guilty of specified crimes related to stealing, falsifying, altering or destroying public records or documents are punishable by felony imprisonment, or in a county jail or by both a fine and imprisonment.

ABSTRACT

Existing Law:

- 1) Provides that every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:
 - a. Steal, remove, or secrete.
 - b. Destroy, mutilate, or deface.
 - c. Alter or falsify. (*Government Code [GOV] 6200*)
- 2) Provides that every person not an officer referred to in Government Code Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by a fine not exceeding \$1,000, or by both that fine and imprisonment. (*GOV 6201*)
- 3) Specifies that if a minor is taken into temporary custody and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an

attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care. (*Welfare and Institutions Code [WIC] 369(a)(1)*)

- 4) Requires the social worker to notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before that care is provided, and if the parent, guardian, or person standing in loco parentis objects, requires that care to be given only upon order of the court in the exercise of its discretion. (*WIC 369(a)(2)*)
- 5) Authorizes the court, if it appears to the juvenile court that a person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, to make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person. (*WIC 369(b)*)
- 6) Authorizes the court, if a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of a social worker of the county where the dependent child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the dependent child, to, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the social worker may authorize the medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as necessary. (*WIC 369(c)*)
- 7) Authorizes care to be provided by a licensed physician and surgeon, or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a social worker if it appears that a child otherwise described above, requires immediate emergency medical, surgical, or other remedial care in an emergency situation. (*WIC 369(d)*)

This Bill:

- 1) Explicitly includes social workers employed by a county child welfare department in the requirement that a person who is guilty of any crimes related to stealing, removing, destroying, altering, or falsifying public records or documents is punishable by either a felony or a misdemeanor.
- 2) Requires, rather than authorizes, a social worker to secure care for a child who has been taken into temporary custody, has a dependency petition in juvenile court, or has already been adjudged as a dependent of the court, if it reasonably appears that the child requires immediate emergency medical, surgical, or other remedial care in an emergency situation. Requires the care to be provided by a licensed physician and surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist. This care may be provided without a court order.

FISCAL IMPACT

According to the Assembly Appropriations Committee:

The California Department of Social Services (CDSS) estimates ongoing costs to county social workers of an unknown amount, potentially significant and likely in excess of \$150,000 statewide, to the extent county social workers statewide secure emergency care for children in temporary custody. CDSS indicates this directive may require a social worker to transport the child to and from the hospital, supervise the care the child receives, and document the incident and care in the case file. CDSS notes it is difficult to track how often this situation occurs, and that typically, foster or resource parents are expected to obtain emergency medical care for a child in their care, though the social worker does often help to facilitate this process or conduct follow-up.

Although these county costs are state-mandated costs, they are not reimbursable but instead must be funded by the state pursuant to Proposition 30. Proposition 30 (2012) requires 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) to apply to local agencies only to the extent the state provides annual funding for the cost increase.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year in the 2027-28 fiscal year and ongoing.

BACKGROUND AND DISCUSSION

Purpose of the Bill:

According to the author, "The death of Gabriel Fernandez served as a wakeup call to focus our collective conscious on the systemic failure to protect innocent children. It revealed that there are many cracks within the child welfare system that malign the interest of children. Over the years, multiple people have made the statement that if he was just seen by one medical professional, all of this could have been prevented. AB 2304 helps to ensure this statement isn't said about another child by requiring social workers to have children seen by a medical professional in emergency situations."

Child Welfare System

The CWS is the system of intervention of child abuse and neglect. This system provides services to children who have been abused or neglected and their families. The goal of this system is to keep children in their home when it is safe, and when the child is at risk, to develop an alternative plan as quickly as possible¹. Social workers in each county receive reports of abuse or neglect, and work to investigate and resolve those reports. When the investigation substantiates the allegations of abuse or neglect, a family is either provided with services to ensure a child's wellbeing and avoid court involvement, or a child is removed from the family and placed into

¹ <https://www.cdss.ca.gov/inforesources/child-welfare-protection/policies>

foster care. In 2025, the state's child welfare agencies received 398,861 reports of abuse or neglect. Of these, 45,856 reports contained substantiated allegations, and 17,886 children were removed from their homes and placed into foster care via the CWS.

Emergency Medical Care

Counties are responsible for the care and placement of children in the CWS, including medical care. Existing law provides for various avenues to secure medical care for a child taken in the CWS. If a child is taken into temporary custody and a doctor recommends they need medical, surgical or dental care, the social worker may authorize the care. The social worker must notify the parent or guardian before the care is provided and if the parent or guardian objects, the care may only be given upon order of the court. If a petition has been filed in a dependency case and the child needs medical, surgical or dental care and there is no parent or guardian capable of authorizing such care, the court may make an order authorizing that care on the written recommendation of a physical or dentist. If a dependent child is placed in the care and custody or under the supervision of a social worker and there is no parent or guardian capable or willing to authorize medical, surgical or dental care, the court may, after due notice to the parent or guardian, order that the social worker may authorize the care.

This bill deals with a fourth situation in which a child is in temporary custody, is the subject of a court petition, or is already a dependent of the court and requires immediate medical, surgical or dental care in an emergency situation. Under existing law the social worker *may* secure such care and it may be done without a court order. Under this bill, if it reasonably appears the child requires immediate emergency care, the social worker *must* secure that care and that care is permitted to be provided without a court order. For this circumstance the law defines "emergency situation" to mean that a child requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease that, if not immediately diagnosed and treated, would lead to serious disability or death.

Incident Leading to This Bill

The author has introduced this bill in response to the tragic case of Gabriel Fernandez, an eight-year-old boy in Antelope Valley who was tortured and murdered by his mother and her boyfriend in 2013. His death was not only horrific in the abuse he suffered, but also in how the system failed to protect him. According to grand jury testimony, several agencies investigated allegations of abuse before Gabriel's death without removing the boy from the home. On multiple occasions, deputies went to the family's apartment or to Gabriel's school to investigate reports of abuse and of the boy being suicidal. Each time, they concluded there was no evidence of abuse and did not write a detailed report.² Grand jury testimony indicated deputies never removed any of Gabriel's clothing to check for signs of abuse. Teachers called the county to report Gabriel was being abused numerous times, and while social workers followed up on the complaints, he was never removed from the home.

In response to the Gabriel Fernandez tragedy, Los Angeles County took steps to improve their CWS, including convening a special commission to study the county's response to child welfare

² <https://www.latimes.com/local/countygovernment/la-me-gabriel-fernandez-20140819-story.html>

issues and ordering a reorganization that includes setting up a child welfare czar to better coordinate communication between departments charged with protecting children and responding to reports of abuse. The Los Angeles County Department of Children and Family Services issued a statement³ in March 2020 regarding reforms taken since Gabriel's death, including:

- Hiring 3,573 new social workers since 2013. This expansion means lower caseloads for workers.
- Achieving a 5:1 ratio of supervisors to social workers. The Antelope Valley offices currently have a ratio lower than this.
- Implementing a plan to station social workers at 14 community schools in the Antelope Valley, expected to launch in April 2020, with the goal to ultimately roll out countywide.
- Implementing a Criminal Clearance Tracking System to enable social workers in the field to use mobile devices to immediately access basic criminal history data in abuse or neglect cases.
- Developing and investing in new social work trainings, including simulation labs and experiential learning.
- Retraining workers on how to interview witnesses, recognition of physical injuries, when to use forensic exams, and how to handle a child's recanted allegations.
- Dispatching a Deputy Sheriff and social worker together on calls that involve suspected child abuse or neglect.
- Co-locating Department of Children and Family Services workers in several County Sheriff's patrol stations to further build our relationships with law enforcement and collaborate in connecting families to critical resources.
- Instituting a Continuous Quality Improvement team to help identify concerns and possible systemic issues early.
- Increasing use and adoption of technology tools that help social workers complete more rapid review of extensive case histories.

Gabriel's death was a tragedy, and the entire system failed him, from law enforcement to social services. It is unclear if this bill would have impacted whether or not Gabriel would have received medical care. The language in this bill only applies to children in the custody of the dependency system, and Gabriel never was.

Related/Prior Legislation:

AB 2654 (Lackey, 2022) would have reconvened the California State Child Death Review Council by removing the requirement for funds to be appropriated in order to be operative. AB 2654 was held in the Assembly Appropriations Committee.

AB 31 (Lackey, of 2021) would have established the Office of the State Child Protection Ombudsperson within the California Department of Social Services for the purpose of reviewing individual casework, observing management structures, and suggesting systematic alteration of CWS. AB 31 was held in the Assembly Appropriations Committee.

³ <https://dcfs.lacounty.gov/statement-from-the-department-of-children-and-family-services-on-the-trials-of-gabriel-fernandez-netflix-documentary-series/>

AB 1450 (Lackey, 2019) would have authorized a police or sheriff's department receiving a report of, or investigating an open case for, known or suspected child abuse or severe neglect to forward a substantiated report of child abuse or severe neglect to the Department of Justice for inclusion in the Child Abuse Central Index. This bill failed passage in the Senate Public Safety Committee.

AB 1911 (Lackey, 2018) would have required every county to establish an online database for specified agencies to track the reporting of allegations of child abuse and neglect by 2029. This bill failed passage in the Assembly Public Safety Committee.

COMMENTS

Counties have policies and procedures in place to direct social workers in what to do when dealing with cases involving allegations of physical abuse. For example, San Diego County requires social workers do a same-day consultation their supervisor on all allegations of physical abuse, sexual abuse, and/or medical neglect. Further, social workers must get a same-day medical opinion and/or medical exam when one or more of the following is present: child under 1 year of age with bruises, burns, breaks, traumatic head injury due to child maltreatment, or suspicious injuries; a child under 3 years of age with burns, breaks, or bruising to head, face or torso; suspicious bite marks; developmentally delayed or emotionally/physically challenged child who has suspicious breaks or burns, or injuries that are traumatic enough to require medical attention; any siblings and other children who reside in the home of a child whose death is suspicious or of a non-accidental cause; siblings of a child with documented serious non-accidental injuries; or other high-risk factors related to medical and/or physical issues are present.

This bill requires, rather than allows, a social worker to secure care for a child in the custody of the dependency system when it reasonably appears the child requires immediate emergency medical, surgical, or other remedial care in an emergency situation. This bill is in response to the tragic death of Gabriel Fernandez. Gabriel, despite repeated visits by law enforcement and social workers, was never in the custody of the dependency system, so it is unclear if the language of this bill would have resulted in him receiving medical care.

SUPPORT/OPPOSITION

Arguments in Support:

The Los Angeles District Attorney's Office writes, "AB 2304 clarifies that, in situations where a child taken into temporary custody needs emergency care, the social worker shall secure the needed care for the child, rather than being simply authorized to secure it; and also clarifies that county social workers who are guilty of specified crimes related to stealing, falsifying, altering or destroying public records or documents are punishable by felony imprisonment, or in a county jail or by both a fine and imprisonment. Existing law merely authorizes but does not require a social worker secure medical care for a child when it appears that the child requires immediate emergency medical, surgical, or other remedial care in an emergency situation. This bill would mandate that the social worker secure medical care for the child from a licensed physician and

surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order.”

Arguments in Opposition:

Los Angeles Dependency Lawyers, Inc. writes, “The Author states that the impetus behind this bill is the tragic case of Gabriel Fernandez. Notably, the proposed changes would have had no effect for Gabriel, either in securing care for him before his death, or imposing criminal liability after it. This lack of impact highlights the inadequacy of AB 2304... [Gabriel] was not subject to WIC Sec. 369, because he was not taken into DCFS custody, did not have a filed petition, and was not a dependent of the juvenile court. Therefore, the change to WIC Sec. 369 would not have affected him, and it does nothing to prevent social worker misconduct from happening again... Gabriel Fernandez was failed by the Department of Children and Family Services as a whole, and by the social workers as individuals. His name should be a rallying cry to increase accountability for DCFS and its employees, and LADL would enthusiastically support such a bill. However, this bill is ineffectual at best, and at worst provides safe harbor for social workers when they falsify reports.”

PRIOR VOTES

Assembly Floor:	78 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Human Services Committee:	7 - 0

POSITIONS

Support:

Los Angeles County District Attorney's Office

Oppose:

Los Angeles Dependency Lawyers, INC

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