
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1061 **Hearing Date:** July 2, 2019
Author: Gipson
Version: June 20, 2019
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Foster Care*

HISTORY

Source: California Youth Connection

Prior Legislation: AB 2247 (Gipson), Ch. 674, Stats. 2018

Support: California Council of Community Behavioral Health Agencies; California Court Appointed Special Advocates Association; Children Now; Community Coalition; John Burton Advocates for Youth; Juvenile Court Judges of California; Lincoln Families; National Association of Social Workers, California Chapter; Pacific Juvenile Defense Center

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to add probation-supervised foster youth and responsibilities for probation officers to provisions of current law, stipulating certain processes, requirements, and timelines regarding placement changes for foster youth.

Existing law establishes a system of juvenile dependency for children for specified reasons, including but not limited to children who are, or are at risk of, being physically, sexually, or emotionally abused, being neglected or being exploited, to ensure their safety, protection, and physical and emotional well-being, as specified. (Welf. & Inst. Code, § 300 et seq.)

Existing law provides that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm. (Welf. & Inst. Code, § 300.2.)

Existing law declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of his or her parents, to give preferential consideration to placement with relatives. States the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting and as close to the child's family as possible, as specified.

States the intent of the Legislature that all children live with a committed, permanent, nurturing family and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (Welf. & Inst. Code, § 16000.)

Existing law requires out-of-home placement of a child in foster care to be based upon selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and is the most appropriate setting that meets the child's individual needs, as specified. Requires the selection of placement to consider, in order of priority, placement with: relatives, nonrelative extended family members, and tribal members; foster family homes, resource families, and approved or certified homes of foster family agencies, followed by intensive services for foster care homes or multidimensional treatment foster care homes or therapeutic foster care homes; group care placements in the order of short-term residential therapeutic programs, group homes, community treatment facilities, and out-of-state residential treatment, as specified. (Welf. & Inst. Code, § 16501.1, subd. (d)(1).)

Existing law permits the juvenile court to order and adjudge to be a ward of the court the following individuals, as specified: a minor between the ages of 12 and 17 is incorrigible or a truant; a minor between the ages of 12 and 17 who has committed a crime; or, a minor under the age of 12 who is alleged to have committed certain violent crimes. (Welf. & Inst. Code, § 725, subd. (b).)

Existing law requires the court, in certain circumstances, to order the care, custody, and control of a minor or nonminor adjudged a ward of the court to be under the control of a probation officer, and authorizes the probation officer to place the minor or nonminor in a number of settings, including, as specified and with age restrictions in some cases: the approved home of a relative or non-relative extended family member; a foster home, approved resource family home, or home or facility in accordance with the federal Indian Child Welfare Act; a suitable licensed community care facility; a foster family agency, in a suitable certified family home or with a resource family; and a group home or short-term residential therapeutic programs. (Welf. & Inst. Code, § 727.)

Existing law requires an order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Division of Juvenile Justice to be made only after a noticed hearing. (Welf. & Inst. Code, § 777.)

Existing law requires notice to be made by the probation officer where a minor has been declared a ward of the court or a probationer under Section 601 in the original matter. (Welf. & Inst. Code, § 777, subd. (a)(1).)

Existing law requires notice to be made by the probation officer or the prosecuting attorney if the minor is a court ward or probationer under Section 602 in the original matter. (Welf. & Inst. Code, § 777, subd. (a)(2).)

Existing law enumerates rights of minors and nonminors in foster care, including but not limited to the right to: live in a safe, healthy, and comfortable home where he or she is treated with respect; be free from physical, sexual, emotional, or other abuse, or corporal punishment; receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance; receive medical, dental vision, and mental health services; be involved in the development of his

or her own case plan and plan for permanent placement; and review their own case plan and plan for permanent place, if they are 12 years of age or older and in a permanent placement, and receive information about his or her out-of-home placement and case plan, including being told of changes to the plan. (Welf. & Inst. Code, § 16001.9.)

Existing law defines “nonminor dependent” as a current foster youth or ward of the juvenile court, or nonminor under the transition jurisdiction of the court, who is between 18 and 21 years old, in foster care under the responsibility of the county welfare department, county probation department, or an Indian Tribe, and has a transitional independent living case plan, as specified. (Welf. & Inst. Code, § 11400, subd. (v).)

Existing law establishes the Office of the State Foster Care Ombudsperson within the California Department of Social Services (CDSS) for the purpose of providing children placed in foster care with means to resolve issues related to their care, placement, or services. (Welf. & Inst. Code, § 16161.)

Existing law requires the Office of the State Foster Care Ombudsperson to investigate and attempt to resolve complaints regarding care, placement, or services made by, or on behalf of, foster youth. Requires the Ombudsperson to document the number, source, origin, location and nature of these complaints and annually report on the complaints to the Legislature, as specified. (Welf. & Inst. Code, § 16164.)

Existing law states the intent of the Legislature to prevent children or youth in foster care from experiencing unnecessary or abrupt placement changes. (Welf. & Inst. Code, § 16010.7, subd. (a).)

Existing law requires a social worker or placing agency to develop and implement a foster care placement preservation strategy, in consultation with the child’s child and family team (CFT), to preserve the child’s placement prior to making a change in the placement of the child, as provided. Requires that this strategy be included within the child’s case notes in the statewide child welfare information system. (Welf. & Inst. Code, § 16010.7, subds. (b), (c).)

Existing law requires a social worker or placing agency to serve written notice on all of the following parties at least 14 days prior to a placement change, if the social worker or placement agency finds that the placement change is necessary after implementing the placement preservation strategy: the child’s parent or guardian; the child’s caregiver; the child’s attorney; and, the child, if the child is 10 years of age or older. (Welf. & Inst. Code, § 16010.7, subd. (e).)

Existing law prohibits a placement change from taking place between 9 p.m. and 7 a.m. unless agreed upon by all of the following: the child, if the child is 10 years of age or older, or a representative of the child, if the child is under 10 years of age; the child’s current caregiver; the child’s prospective caregiver; and the child’s social worker. (Welf. & Inst. Code, § 16010.7, subd. (f).)

Existing law authorizes a social worker or placing agency to change a child or youth’s placement without first enacting the preservation strategy or providing 14 days of notice if either of the following applies:

- It is determined that remaining in the existing placement or providing prior written notice of a placement change poses an imminent risk to the health or safety of the child or other children in the home or facility; or

- If either the child's CFT and the child, if the child is 10 years of age or older, or the child's CFT and the child's representative, if the child is younger than 10 years of age, unanimously agree to waive the preservation strategy and notice requirements. (Welf. & Inst. Code, § 16010.7, subd. (h).)

Existing law stipulates that the requirement of 14 days written notice and the creation and implementation of a placement preservation strategy only applies to children and youth for whom the dependency court has entered a judgment, as provided. Stipulates that these provisions do not apply to a planned placement change as informed by the child's CFT and that is described in the child's case plan. (Welf. & Inst. Code, § 16010.7, subds. (i),(k).)

Existing law stipulates that the requirement of 14 days written notice and the creation and implementation of a placement preservation strategy does not apply to a nonminor dependent who is placed in a Transitional Housing Placement program or a supervised independent living placement, as provided. (Welf. & Inst. Code, § 16010.7, subd. (j).)

This bill adds probation-supervised foster youth, and responsibilities for probation officers, to provisions of current law that mandate the creation and implementation of a placement preservation strategy.

This bill makes other conforming changes.

COMMENTS

1. Need for This Bill

According to the author:

Experiences of being involved with the delinquency court, combined with the disruptive impact of experiencing multiple foster care placements, can have negative impacts for probation-supervised foster youth. AB 2247 (Gipson), Chapter 674, Statutes of 2018, adopted last year, required the development and implementation of a placement preservation strategy prior to changing a dependent child's placement, and required at least 14 days' written notice to be given prior to a placement change, except in instances where delayed placement or prior notice of a placement change would endanger a child's health or safety or where all parties have agreed to waive these requirements. This bill seeks to extend the provisions of AB 2247 to probation-supervised foster youth.

2. Child Welfare Services

California's child welfare services system is an essential component of the state's safety net. Social workers in each county who receive reports of abuse or neglect, 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 home and placed into foster care. According to the Senate Human Services Committee analysis of this bill, the state's child welfare agencies received 485,651 reports of abuse or neglect in 2018. Of those, 66,584 reports contained allegations that were substantiated and 27,110 of the substantiated reports resulted in children being removed from their homes and placed into foster care.

Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county's juvenile dependency court. The dependency court holds legal jurisdiction over the children, while the children are served by the child welfare services 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. The system provides multiple opportunities for the custody of a child, or the child's placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child's social worker to help provide the best possible services to the child. It is the state's goal to reunify a foster child or youth with their family whenever possible. In instances where reunification is not possible, it is the state's goal to provide a permanent placement alternative, such as adoption or guardianship, with the second highest placement priority of the child welfare services system being to unite children with other relatives or nonrelative extended family members.

3. Continuum of Care Reform (CCR)

For more than a decade, researchers have documented poor outcomes for foster children, especially for those who are placed in group care. CCR intends to reduce the numbers of foster children placed in congregate settings by improving assessments of children and families, emphasizing home-based family placements of foster children, and changing the goals of congregate care placements.

According to a 2015 report by CDSS which forms the basis of the CCR: "Children should live in their communities in home-based family care settings," (CDSS, *California's Child Welfare Continuum of Care Reform* (Jan. 2015), p. 5 <https://www.cdss.ca.gov/cdssweb/entres/pdf/CCR_LegislativeReport.pdf>.) This report contained a number of recommendations aimed at reforming the foster care system and reducing California's reliance on group home settings as acceptable foster care placements. In 2015, the Legislature passed the first of four CDSS-sponsored bills enacting CCR, AB 403 (Stone), Chapter 773, Statutes of 2015. Among the essential components of CCR is the establishment of a child and family team for each child in care, the expansion of the RFA process, the elimination of the group home category, and the creation of short term residential therapeutic programs.

4. Placement Stability

The child welfare services system has prioritized placement stability as an outcome goal because research shows that placement stability is linked with a number of positive outcomes, including: fewer school transitions, decreased stress, and fewer behavior, mental health, and academic achievement problems. Placement instability, on the other hand, is associated with numerous negative outcomes, including a prevalence of attachment disorders and behavioral challenges. For example, a 2008 literature review on placement stability in child welfare services prepared by the UC Davis Center for Human Services found that on top of the stress resulting from being separated from their parents, children who experience multiple placements can "experience profound distress and a sense of loss and not belonging, all of which can lead to distrust and a fear of forming secure healthy relationships." (Northern California Training Academy, *Placement Stability in Child Welfare Services: Issues, Concerns, Outcomes and Future Directions Literature Review* (Aug. 2008), p. 4 <<http://www.childsworld.ca.gov/res/pdf/PlacementStability.pdf>>.) Moreover, research suggests that placement instability tends to lend itself to a cycle of multiple placement changes, as the changes may exacerbate existing behavioral concerns and lead to additional challenges, making children who have experienced multiple placements vulnerable to additional placement changes and a lack of long term stability.

5. Probation-Supervised Foster Youth

Some youth who are on probation and supervised by the delinquency court are determined to be unable to safely return home following their formal detention. In these instances the court may order the child or youth to be placed in foster care. These youth, referred to as wards of the court as well as dual status youth, are considered to remain under the jurisdiction of the county probation agency rather than the child welfare agency and continue to be supervised by the delinquency court. Following the implementation of CCR, probation departments are required to serve these youth in the least restrictive, most family-like environment available that still meets the youth's particular needs. Like other foster youth, probation-supervised foster youth are supposed to be placed in family settings that promote normal childhood experiences and group care, when necessary, is supposed to be used on a short-term basis for providing high-quality, intensive treatment interventions. (See CDSS, *CCR & Probation Youth Fact Sheet* <<https://www.cdss.ca.gov/cdssweb/entres/pdf/CCR/Probation.pdf>>.)

According to the Senate Human Services Committee analysis of this bill, there were 2,542 probation-supervised foster youth in California as of October 1, 2018. Though, as discussed above, the goals of CCR are supposed to apply to all foster youth, data shows that many more probation supervised youth remain placed in group homes. As of October 1, 2018, 42.8 percent of probation-supervised foster youth remained in group home placements, while only 5.4 percent of dependent foster youth were placed in such settings. Additionally, for probation-supervised foster youth who had been in foster care for at least 12 months, almost 54 percent reported at least two placements during the six month period between April 1, 2017 and September 30, 2017. Twenty-four percent of probation-supervised foster youth reported three or more placements during that same time period.

6. Prior Legislation

In 2018, AB 2247 (Gipson), Chapter 674, Statutes 2018, required a social worker or placement agency to implement a placement preservation strategy prior to changing a dependent child's placement, and required at least 14 days written notice to be given prior to a placement change, except in instances where delayed placement or prior notice of a placement change would endanger a child's health or safety or where all specified parties have agreed to waive these requirements. AB 2247 was part of an effort to highlight the number of placement changes many of California's foster youth were facing and the adverse impact these changes had on those youth. The resulting policy changes were an attempt to increase placement stability with the goal of creating better permanency outcomes for youth in foster care.

This bill extends these same policy changes to probation-supervised foster youth. Given that probation-supervised foster youth are supposed to be moving from congregate care placements to the least restrictive, family-like settings available, providing these youth with the same placement stability protections as their dependency supervised peers appears to be an appropriate change to existing law.

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