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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair  
2019 - 2020 Regular

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**Bill No:** AB 819                      **Hearing Date:** July 9, 2019  
**Author:** Mark Stone  
**Version:** July 1, 2019  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** SC

**Subject:** *Foster care*

## HISTORY

**Source:** Author

**Prior Legislation:** AB 1930 (Stone), Ch. 910, Stats. 2018  
AB 404 (Stone), Ch. 732, Stats. 2017  
AB 1997 (Stone), Ch. 612, Stats. 2016  
AB 403 (Stone), Ch. 773, Stats. 2015

**Support:** California Alliance of Child and Family Services; Seneca Family Agencies;  
Stanford Youth Solutions; Walden Family Services

**Opposition:** None known

**Assembly Floor Vote:** 76 - 0

## PURPOSE

***The purpose of this bill is to make a number of changes related to the foster care system and to extend civil and criminal immunity to any person who, in good faith, provides information or assistance to an agency authorized to receive reports of child abuse and neglect.***

*Existing law* states that the purpose of foster care law is to provide maximum safety and protection for children who are being physically, sexually or emotionally abused, neglected, or exploited and to ensure the safety, protection, and physical and emotional well-being of children at risk of such 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, reunify a foster child with his or her relatives, or when family reunification is not possible or likely, to develop a permanent alternative. Further 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 promoting normal childhood experiences that is suited to meet the child's or youth's needs and is as close to the child's family as possible, as specified. Further declares Legislative intent that all children live with a committed, permanent, and nurturing family and that services and supports should be tailored to meet the needs of the individual child and family being served, as specified. (Welf. & Inst. Code, § 16000.)

*Existing law* defines “child and family team” to mean a group of individuals convened by a placing agency who are engaged through team-based processes to identify the strengths and needs of a child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being, as specified. (Welf. & Inst. Code, § 16501, subd. (a)(3).)

*Existing law* allows a resource family approved by a licensed foster family agency to transfer their approval to a county upon the successful completion of certain activities, as specified. (Welf. & Inst. Code, § 16519.58, subd. (a).)

*Existing law* specifies that oversight and monitoring of county systems and operations include reviewing an adequate number of county-approved resource families in each county to ensure that approval standards are being properly applied, which includes case file documentation and may include onsite inspection of individual resource families. Further, requires the review to occur on an annual basis and more frequently if Department of Social Services (CDSS) becomes aware that a county is experiencing a disproportionate number of complaints against individual resource family homes. (Welf. & Inst. Code, § 16519.5, subd. (f)(6)(B).)

*Existing law* allows a county or CDSS to deny a resource family application or rescind the approval of a resource family, and allows CDSS to exclude an individual from any resource family home, for certain reasons, including: conduct that poses a risk of threat to the health and safety, protection, or well-being of a child, another individual, or the people of the State of California; the conviction of the resource family applicant, parent, or associated individual at any time before or during their approval of certain crimes; and, engaging in acts of financial malfeasances, among others, as specified. (Welf. & Inst. Code, § 16519.61.)

*Existing law* requires CDSS, if the department requires an foster family agency (FFA) to deny an application or rescind the approval of a resource family, to serve an order of denial or rescission notifying the resource family, applicant, and FFA of the basis of the department’s action and of the right to a hearing. (Welf. & Inst. Code, § 16519.6, subd. (h).)

*Existing law* requires exclusion from a licensed foster family home or certified family home to include exclusion from a resource family. (Welf. & Inst. Code, § 1558, subd. (j).)

*Existing law* defines “intensive services foster care” (ISFC) as a licensed foster family agency model or public delivery model of home-based family care for eligible children whose needs for safety, permanency, and well-being require specially trained resource parents and intensive professional and paraprofessional services and support in order to remain in a home-based setting, or to avoid or exit congregate care in a short-term residential therapeutic program, group home, or out-of-state residential center. (Welf. & Inst. Code, § 18360, subd. (c).)

*Existing law* states that no more than two foster children, one or both of whom may be eligible children, from being placed in an ISFC resource family home, as specified. (WIC 18360.15, subd. (b).)

*Existing law* states that no more than a total of five foster children in an ISFC resource family home, including the two eligible children that may be placed, in order to accommodate sibling group placements when at least one sibling is an eligible child. (Welf. & Inst. Code, § 18360.15, subd. (c).)

*Existing law* requires a licensed FFA operating an ISFC program, prior to placement of a second child or a second and subsequent child or sibling placement, to provide each county placing agency with a written assessment of the risk and compatibility of placing subsequent foster children together in the same ISFC resource family with an eligible child. Further, allows placement to be made if approved by the county placing agency involved, in consideration of the recommendations of the child and family team. (Welf. & Inst. Code, § 18360.15, subd. (d).)

*Existing law* defines a “community care facility” as any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes: residential facilities, adult day programs, foster family agencies, group homes, and children’s crisis residential programs, among others. (Health & Saf. Code, § 1502 et seq.)

*Existing law* defines “residential care facility” as a residential care facility for persons with chronic, life-threatening illness who are 18 years of age or older or are emancipated minors. (Health & Saf. Code, § 1568.01, subd. (j).)

*Existing law* defines “residential care facility for the elderly” as a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. (Health & Saf. Code, § 1569.2, subd. (o)(1).)

*Existing law* defines “child day care facility” as a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis, and may include day care centers, employer-sponsored child care centers, and family day care homes. (Health & Saf. Code, § 1596.750.)

*Existing law* requires DCSS to establish rates for short-term residential therapeutic programs and FFAs that include an interim rate that is effective January 1, 2017, to December 31, 2019, inclusive, and that becomes inoperative on January 1, 2020.

*This bill* makes a number of changes to the foster care system including allowing more children to be placed in foster care homes than is currently allowed to take into account siblings; allowing for emergency placement with a foster care family pending a background check; extending the rates to be paid to FFAs and short-term residential therapeutic programs to January 1, 2021; and requiring CDSS, in consultation with counties and other stakeholders, to consider options to expand the number of available resource families who are willing to provide intensive services foster care, as provided.

*Existing law* defines “mandated reporters” to include persons in various professions that may be in a position to witness child abuse and neglect. (Pen. Code, § 11165.9)

*Existing law* requires mandated reporters to make reports of suspected child abuse or neglect to any police department or sheriff’s department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department.” (Pen. Code, § 11165.9.)

*Existing law* defines "child abuse or neglect" to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury as defined. (Pen. Code, §11165.7, subd. (a).)

*Existing law* requires that any specified mandated reporter who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment whom the reporter knows, or reasonably suspects, has been the victim of child abuse, to report it immediately to a specified child protection agency. (Pen. Code, § 11166, subd. (a).)

*Existing law* states that any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of \$1,000 or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a specified agency discovers the offense. (Pen. Code, § 11166, subd. (c).)

*Existing law* states notwithstanding other provisions of law, any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than \$5,000, or by both that fine and imprisonment. (Pen. Code, § 11166.01.)

*Existing law* states that no mandated reporter shall be civilly or criminally liable as a result of reporting instances of known or suspected child abuse and neglect unless it can be proven that a false report was made and the person knew the report was false or made with reckless disregard of the truth or falsity of the report. (Pen. Code, § 11172, subd. (a).)

*This bill* extends the civil and criminal immunity that currently exists for mandated reports to any person who, in good faith, provides information or assistance, including medical evaluations or consultations, to an agency authorized to receive such reports, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.

*This bill* specifies that that this immunity does not apply to an individual who is suspected of committing abuse or neglect of the child who is the subject of the report.

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

In 2015, the Legislature and the Governor prioritized improving outcomes for youth in foster care by passing and signing into law AB 403 (Stone) which began a multi-year reform process for the continuum of care (CCR). The law went into effect on January 1, 2016 and becomes fully operational by 2022, and it gives families who provide foster care targeted training and support so that they are better prepared to care for youth living with them. The law also advances California's long-standing goal to move away from

the use of long-term group home care by increasing youth placement in family settings and by transforming existing group home care into places where youth who are not ready to live with families can receive short term, therapeutic and intensive treatment. Several workgroups have been convened through the Department of Social Services to help providers make these significant transitions.

As with any new law that makes changes to state and local bureaucratic structures and duties, provider licensure and training, and reimbursement system transformation, AB 403 requires (and will likely continue to require) numerous technical updates and policy clarifications to ensure that stakeholders can most effectively and efficiently implement provisions of the new law. AB 819 is the 2019 vehicle for accomplishing this goal.

AB 819 would allow a county placing agency, contingent on approval from the State Department of Social Services, to place up to 3 unrelated foster children, one or two of whom are eligible for intensive services, in the same intensive services foster care (ISFC) resource family home. It would also allow more than five children to be placed in the same home to accommodate sibling groups.

AB 819 will clarify that the court is not required to terminate the dependency case until the case has reached 6 months as an “approved” home. This will allow us to continue to claim federal funds for Kin-GAP once the child exits to guardianship. This clarification is required because federal funding rules require a child to be in an approved home for 6 months. This will allow the court to establish the guardianship at the point in time that is appropriate while keeping the dependency case open until the child has been in the approved home for 6 months. While permanency will not be delayed, the exit from foster care is delayed enough to ensure that the case can be closed to Kin-GAP.

This measure would also adjust the RFA process to allow a resource family to transfer from one oversight organization to another because at times, resource families need to transfer between oversight bodies because they have relocated or because of an increased need for services.

AB 819 would clarify that the exclusions in statute that formerly applied to licensed foster family homes and certified homes will now apply to RFA homes. This amendment is necessary because although licensed foster family homes and certified homes will no longer exist once the RFA conversion period ends, the exclusions that once applied to those homes in statute need to apply to RFA homes.

The bill authorizes probation departments to make emergency placements for probation youth through the RFA process. The bill authorizes Tribally Approved Homes to access the Foster Family Home and Small Family Home Insurance Funds. The bill also removes one of two required mental health program approvals for the Children Crisis Residential Program. Additionally, the bill will extend the date of final implementation of the CCR rate structure.

AB 819 will also make changes to comply with Federal law. The bill will make changes to language governing background checks imposed on residential community care facilities to comply with the Family First Prevention Services Act. The bill will align state law with new federal requirements in the Child Abuse Prevention and Treatment Act around immunity from civil and criminal liability. The bill will also require CDSS to

issue future directives that require Child Welfare Contributing Agencies to provide specific child welfare data per the U.S. Department of Health and Human Services' Administration for Children and Families' Comprehensive Child Welfare Information Systems (CCWIS) regulations.

## **2. Child Abuse and Neglect Reporting Act (CANRA)**

CANRA was established in 1981 for the purpose of protecting children from abuse and neglect. The law imposes a mandatory reporting requirement on individuals whose professions bring them into contact with children. These professionals are called mandated reporters for purposes of CANRA. Whenever a mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

A mandated reporter must report an incident of child abuse by telephone to a police or sheriff's department or a county probation or welfare department immediately or as soon as practically possible, and then prepare and submit a written follow up report within 36 hours of receiving the information concerning the incident. A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect is guilty of a misdemeanor.

CANRA also provides civil and criminal immunity to any mandated reporter that reports an incident of known or suspected child abuse, unless the person files a false report knowing that the information is false or made the report with reckless disregard of the truth or falsity of the report. A mandated reporter who makes such a false report may be liable for any damages caused. This bill extends civil and criminal immunity to any person who, in good faith, provides information or assistance, including medical evaluations or consultations, to an agency authorized to receive such reports, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect. The policy reasons for providing civil and criminal immunity in such cases is to encourage a person who may not specifically be listed as a mandated reporter to still assist or provide information related to known or suspected child abuse.

## **3. Continuum of Care Reform (CCR)**

Over the past four years, California has enacted legislation, known 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 CWS 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. Subsequent legislation to further facilitate implementation of CCR efforts include AB 1997 (Stone), Chapter 612, Statutes of 2016, AB 404 (Stone), Chapter 732, Statutes of 2017, and AB 1930 (Stone), Chapter 910, Statutes of 2018.

CCR also featured the statewide adoption of the Resource Family Approval (RFA) program, which, until that point, had been a voluntary pilot project for counties. RFA provides a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship processes. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families,

including relatives, in order to ensure that caregivers are equipped to best meet the needs of youth in foster care. RFA is also a route to direct permanency for caregivers who wish to adopt or be guardians of youth in care, as the RFA process includes elements required by both the adoption and guardianship processes. This bill would require counties and FFAs, when a resource family seeks approval by a subsequent FFS or transfer of their approval to a county, to request or provide documents in the resource family file maintained by a county or the resource family case record maintained by a foster family agency, including any updates to the file or record.

This bill clarifies that the exclusions in statute that formerly applied to licensed foster family homes and certified homes will now apply to RFA homes. These changes are intended to accommodate families who move or have an increased need for services, and to ensure that existing laws continue to apply to all types of foster families.

#### **4. Intensive Services Foster Care (ISFC)**

Intended to serve children who require intensive treatment and behavioral supports, ISFC is designed to ensure foster youth receive necessary mental and behavioral health supports in a home-based setting, rather than in congregate care settings. ISFC arranges access to mental health treatment, provides trauma-informed care, and provides transitional support during placement in a permanent home to children who meet certain criteria. Current law does not allow more than two foster children to be placed in an ISFC resource family home in instances where one of the youth is ISFC eligible, except in placements for sibling groups where the maximum total number of children in a single resource family home is five.

This bill would instead authorize a county placing agency to approve placements for siblings and noneligible foster children if there are less than 3 eligible children placed in an ISFC resource family home and the home's capacity is not exceeded, as specified. The bill would require the department to adopt regulations to implement the intensive services foster care program, and would authorize the department, until regulations are adopted, to administer the program through the issuance of written directives. The bill would require a foster family agency that intends to operate an intensive service foster care program to provide to the department a description of the program model and how it intends to comply with specified statutory requirements.

#### **5. Argument in Support**

According to California Alliance of Child and Family Services:

Many factors go into consideration of where a foster child should live to receive the services and supports needed for their safety, well-being and permanency. In addition to the capacity and skills of the caregivers, there are the needs of the children in the home, the compatibility of the children, the availability of extended family supports, and other community resources to consider. Amending the IFSC statute to allow for placement flexibility on a case-by-case basis taking into account the voice and choice of the youth to be placed, the children in the home, the recommendations of all the parties by using the [Child and Family Teams] CFTs, the [interagency placement committee] IPCs, the county placing agencies and the Department where indicated, aligns with the intent of Continuum of Care (CCR) to provide the quality of care necessary for kids and families to thrive.