
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
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Bill No: SB 384 **Hearing Date:** April 13, 2021
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Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juveniles: relative placement: family finding*

HISTORY

Source: California Judges Association

Prior Legislation: AB 2944 (Stone), Ch. 104, Stats. 2020
AB 819 (Stone), Ch. 777, Stats. 2019
AB 1930 (Stone), Ch. 910, Stats. 2018
AB 404 (Stone), Ch. 732, Stats. 2017
SB 1336 (Jackson), Ch. 890, Stats. 2016
AB 1997 (Stone), Ch. 612, Stats. 2016
AB 403 (Stone), Ch. 773, Stats. 2015

Support: California Public Defenders Association; County Welfare Directors Association of California; Juvenile Court Judges of California; National Association of Social Workers, California Chapter

Opposition: None known

PURPOSE

The purposes of this bill are to require county welfare and probation departments to notify the California Department of Social Services (CDSS) and the State Foster Care Ombudsperson (Ombudsperson) whether it has adopted and implemented one of the suggested practices for family finding, as specified; require a county welfare department or probation department to provide a copy of their existing policies and practices to CDSS and the Ombudsperson if the department has not adopted one of the suggested practices; and specifies that the required due diligence of the social worker or probation officer includes family finding, as defined.

Existing law provides that any minor between 12 years of age and 17 years of age, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of his or her parents, guardian, or custodian, or who is beyond the control of that person is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 601, subd. (a).)

Existing law provides that a peace officer may, without a warrant, take into temporary custody a minor when there is reasonable cause for believing that such minor will be adjudged a ward of the court or charged with a criminal action, or that the minor has violated an order of the juvenile

court or escaped from any commitment ordered by the juvenile court, or the minor is found in any street or public place suffering from any sickness or injury which requires medical treatment, hospitalization, or other remedial care. (Welf. & Inst. Code, § 625.)

Existing law provides that an officer who takes a minor into temporary custody may do any of the following: release the minor; deliver or refer the minor to a public or private agency with which the city or county has an agreement or plan to provide shelter, counseling, or diversion services; prepare a written notice to appear before the probation officer of the county in which the minor was taken into custody at a specified time and place; or take the minor without necessary delay before the probation officer of which the minor was taken into custody. (Welf. & Inst. Code, § 626.)

Existing law requires, when an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement, the officer take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held. (Welf. & Inst. Code, § 627.)

Existing law requires the probation officer to immediately investigate the circumstances of the minor and the facts surrounding his or her being taken into custody and immediately release the minor to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the minor's welfare and one or more specified condition, as provided, is met. Provides those conditions include: continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another; the minor is likely to flee the jurisdiction of the court; or the minor has violated an order of the juvenile court. (Welf. & Inst. Code, § 628, subd. (a)(1).)

Existing law prohibits the probation officer's decision to detain a minor who is currently a dependent of the juvenile court or the subject of a petition to declare him or her a dependent of the juvenile court and who has been removed from the custody of his or her parent or guardian by the juvenile court from being based on any of the following: the minor's status as a dependent of the juvenile court or as the subject of a petition to declare him or her a dependent of the juvenile court; a determination that continuance in the minor's current placement is contrary to the minor's welfare, or the child welfare services department's inability to provide a placement for the minor. (Welf. & Inst. Code, § 628, subd. (a)(2).)

Existing law requires the probation officer to immediately release a minor who is currently a dependent of the juvenile court to the custody of the child welfare services department or his or her current foster parent or other caregiver, except as specified. (Welf. & Inst. Code, § 628, subd. (a)(3).)

Existing law provides that if the probation officer has reason to believe that the minor is at risk of entering foster care placement, as defined, the probation officer is required, as part of the investigation undertaken, to make reasonable efforts, to prevent or eliminate the need for removal of the minor from his or her home. (Welf. & Inst. Code, § 628, subd. (b).)

Existing law provides that if the minor is detained and the probation officer has reason to believe that the minor is at risk of entering foster care placement, as defined, then the probation officer is required to conduct, within 30 days, an investigation in order to identify and locate all grandparents, adult siblings, and other relatives of the child, as defined, including any other adult

relatives suggested by the parents. Requires the probation officer to provide to all adult relatives who are located, except when that relative's history of family or domestic violence makes notification inappropriate, within 30 days of the date on which the child is detained, written notification and also, whenever appropriate, provide oral notification, in person or by telephone, of all the following information: the child has been removed from the custody of his or her parent or parents, or his or her guardians; an explanation of the various options to participate in the care and placement of the child and support for the child's family, including any options that may be lost by failing to respond. (Welf. & Inst. Code, § 628, subd. (d)(2).)

Existing law requires that the probation officer use due diligence in investigating the names and locations of the relatives, including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives. (Welf. & Inst. Code, § 628, subd. (d)(3).)

Existing law provides that to the extent allowed by federal law as a condition of receiving specified federal funds, if the probation officer did not conduct the required identification and notification of relatives, but the court orders foster care placement, the probation officer is required to conduct the investigation to find and notify relatives within 30 days of the placement order. (Welf. & Inst. Code, § 628, subd. (d)(4).)

Existing law defines the following terms:

- "Foster care" means residential care provided in specified settings, as described.
- "At risk of entering foster care" means that conditions within a minor's family may necessitate his or her entry into foster care unless those conditions are resolved.
- "Reasonable efforts" means efforts made to prevent or eliminate the need for removing the minor from the minor's home; efforts to make it possible for the minor to return home, including, but not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services; efforts to complete whatever steps are necessary to finalize a permanent plan for the minor. Provides that for in child custody proceedings involving an Indian child, reasonable efforts also include "active efforts," as defined. . (Welf. & Inst. Code, § 727.4, subd. (d).)

Existing law establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (Welf. & Inst. Code, § 202.)

Existing law establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction of the juvenile court and may be adjudged as a dependent child of the court, as specified. (Welf. & Inst. Code, § 300 et seq.)

Existing law creates a parallel temporary custody and emergency relative placement process for minor's taken into custody by social workers, as provided. (Welf. & Inst. Code, § 309.)

Existing law requires at the initial detention hearing the court to take certain steps to evaluate the case, determine whether the child can be returned home safely, and, if not, to ensure the child is

placed in an appropriate placement, with priority consideration for family members and non-relative extended family members. (Welf. & Inst. Code, § 319.)

Existing law defines “relative” to mean an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of these persons even if the marriage was terminated by death or dissolution. (Welf. & Inst. Code, § 319, subd. (h)(2).)

Existing law requires that in any case in which a child is removed from the physical custody of his or her parents, preferential consideration must be given to a request by a relative of the child for placement of the child with the relative, regardless of the relative’s immigration status. In determining whether placement with a relative is appropriate, the county social worker and the court must consider a variety of factors, as specified, including the ability of the relative to provide a safe, secure and stable environment for the child and protect the child from his or her parents. (Welf. & Inst. Code, § 361.3, subd. (a).)

Existing law requires the court to make a finding as to whether the social worker has exercised due diligence in conducting the investigation to identify, locate, and notify the child’s relatives of the child’s disposition into foster care. Further requires the court to consider the following, among others, as examples of due diligence: asked the child in an age-appropriate manner about their relatives; asked located relatives for names and locations of other relatives; telephoned, emailed, or visited all identified relatives; used Internet search tools to locate relatives identified as supports; among others. (Welf. & Inst. Code, § 358, subd. (b).)

This bill specifies that any parent and alleged parent are included among the relatives a probation officer or social worker should use due diligence in investigating the names and locations of.

This bill requires each county probation department to create and make public a procedure by which a parent and relatives of a child who has been removed from their parents or guardians may identify themselves to the county probation department.

This bill requires each county probation department and each county welfare office to notify CDSS and the Ombudsperson, on or before January 1, 2023, in an email or other correspondence, whether it has adopted one of the suggested practices for family finding described in All-County Letter 18-42, and whether the practice has been implemented through training, memoranda, manuals, or comparable documents.

This bill requires the probation department or county welfare department, if they have not adopted one of the suggested practices for family finding, to provide a copy to CDSS and the Ombudsperson of its existing family finding policies and practices, as provided, that are in existence prior to January 1, 2022.

This bill clarifies that due diligence for the purposes of the probation officer’s or child welfare social worker’s effort to locate relative shall include family finding. Defines family finding for this purpose as meaning identifying relatives and kin through a computer-based search engine, which connects a child or youth, who may be disconnected from their parents, with those relatives and kin in an effort to provide family support and possible placement.

COMMENTS

1. Need for This Bill

According to the author:

Research demonstrates that relative care of foster youth leads to better emotional and physical health outcomes when compared to foster care and congregate care. The findings of a recent study published by BMC Public Health demonstrated that placement in foster care or congregate care has permanent negative effects on children. Additionally, relative care is subjected to many federal and state laws. Nevertheless, only 35% of all children under the age of 18 in California are in the care of a relative.

Several jurisdictions, including portions of Los Angeles, Allegheny, and a number of other counties in Pennsylvania, and Omaha, Nebraska have demonstrated that relative placement can be dramatically increased through the use of family finding and improved social worker practice. Los Angeles County has placed 70% of children with relatives by implementing Family Finding protocols through their social service agency. Family Finding was highlighted in the 2008 Federal Fostering Connections Act as a best practice. The Family Finding model offers methods and strategies to locate and engage relatives of children who have been removed from parental care. The goal of Family Finding is to connect each child with a family so that every child may benefit from the lifelong connections that only a family provides.

Current law requires that social service agencies use due diligence in their efforts to identify, locate, and notify relatives up to the fifth degree of kinship and shall include paternal relatives, with the exception of relatives for whom a history of domestic violence has been determined. SB 384 seeks to implement the use of Family Finding protocols in order to increase a child's placement with relatives. Specifically, the bill adds Family Finding to the definition of "due diligence" and thus requires social workers and probation officers to use Family Finding when identifying a child's placement and notifying missing parents and relatives. If the county agencies have not adopted any of Family Finding protocols, then these agencies shall notify the Department of Social Services and the Foster Care Ombudsperson. An agency's failure to use Family Finding will result in a court determination that the agency did not use due diligence in investigating the names and locations of missing parents and relatives. An agency's use of these critical protocols will help increase relative placements for foster children, thereby preventing poor long-term health outcomes for the children and instead promoting a stable, healthy, and emotionally supportive family environment for them.

2. Background

Child Welfare Services (CWS)

The CWS 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 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 child, while the child 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. Reunification is accomplished through the child's biological parent's completion of all reunifications requirements ordered by a dependency court judge, which typically involves the provision of services, such as drug counseling or parenting classes, to that parent. In instances where reunification is not possible, due to the parent being unable or unwilling to meet the court's requirements, it is the state's goal to provide a permanent placement alternative, such as adoption or guardianship, with priority placed on uniting children with other relatives or nonrelative extended family members.

Dependency Court Process

The juvenile dependency court has legal jurisdiction over a foster child or non-minor dependent. The juvenile dependency court is responsible for determining whether a child is safe and for making decisions about the care and control of the child. The court also orders the provision of services to the child and biological parents through court hearings. This dependency court process sets the path through which a child welfare case is prescribed. When a child is first detained, the judge reviews the facts and decides whether to remove the child from their parents or to return the child home, typically with instructions that parents participate in services. At this hearing, which is referred to as the detention hearing, the court will also try to identify any suitable relatives who may be able to care for the child while the case is pending.

The second hearing is a jurisdictional hearing, in which the merits of the case are decided, this may include a trial on the facts. At this hearing, which must be held within 15 court days from the date of the detention order if the child has been removed from their family, a judge determines whether the allegations of abuse or neglect in the petition filed with the court are true. If the judge determines the allegations to be true, the court takes authority over the child, making the child a dependent of the court and entering the child into the CWS system. If the judge finds the allegations are true at the jurisdictional hearing, then a dispositional hearing is held, sometimes on the same day.

At a dispositional hearing the judge decides: where and with whom the child should live (including whether the child can return home or be removed from their parent's custody); when, where, and how visitation between the child and their parent occurs; what services the child needs to be safe and healthy; and what services the parent needs in order to be reunified with their child. Subsequent hearings evaluate the status of the parents' attempts to reunify with the child and the child's well-being. The judge is required to determine whether a child's social worker has exercised due diligence in conducting their investigation to identify, locate, and notify a dependent child's relatives of the child's involvement with the CWS system and to continue the dispositional hearing if the court determines the social worker did not exercise due diligence.

Continuum of Care Reform (CCR)

The CCR is a system-wide effort to institute a series of reforms to the state's CWS program. It is designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. CCR was designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care. Several CDSS-sponsored CCR bills provided the statutory and policy framework to ensure services and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family.

Placement with Relatives

State and federal law include a preference to place children in out-of-home care with relatives. Numerous nationwide studies have documented the poor outcomes of children and youth who are removed from their homes and placed into the child welfare system. Children involved with the CWS system have increased rates of chronic health problems, developmental delays and disabilities, mental health needs, and substance abuse problems. Many youth in care have experienced traumatic events, including removal from their homes that lead to symptoms such as depression, behavior problems, hypersensitivity, and emotional difficulties. A 2008 study in the Archives of Pediatric and Adolescent Medicine found that children placed into kinship care had fewer behavioral problems three years after placement than children who were placed into foster care. This study also noted that a large body of research acknowledges the evidence that children in kinship care are less likely to change placements, benefiting from increased placement stability and better outcomes. However, the child's social worker must still determine whether such a placement is appropriate by considering a variety of factors, as specified, including the ability of the relative to provide a safe, secure, and stable environment for the child, but preference is provided for a relative or non-relative extended family member placement.

Probation Officer's Role

When a minor who has been taken into temporary custody is turned over to the probation department, probation officer must immediately investigate the circumstances of the minor and the facts surrounding the minor being taken into custody. The minor must be immediately released to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the minor's welfare and one or more specified condition is met. Those conditions include: continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another; the minor is likely to flee the jurisdiction of the court; or the minor has violated an order of the juvenile court. For a minor who is currently a dependent of the juvenile court, the probation officer must immediately release the minor to the custody of the child welfare services department or the minor's current foster parent or other caregiver unless that would be contrary to the minor's welfare or one of the conditions listed above is met.

If the probation officer has reason to believe that the minor is at risk of entering foster care, the probation officer is required, as part of the investigation, to make reasonable efforts, to prevent or eliminate the need for removal of the minor from his or her home. Existing law defines "reasonable efforts" to efforts made to prevent or eliminate the need for removing the minor from the minor's home; efforts to make it possible for the minor to return home, including, but

not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services; efforts to complete whatever steps are necessary to finalize a permanent plan for the minor.

For a minor who the probation officer believes is at risk of entering foster care, the probation officer is required to conduct an investigation within 30 days in order to identify and locate all grandparents, adult siblings, and other relatives of the child, as defined, including any other adult relatives suggested by the parents. The probation officer is required to provide written notification within 30 days of the date the minor is detained of the following information: the child has been removed from the custody of his or her parent or parents, or his or her guardians; an explanation of the various options to participate in the care and placement of the child and support for the child's family, including any options that may be lost by failing to respond. There is an exception to the notification requirement when that relative's history of family or domestic violence makes notification inappropriate. Finally, the probation officer is required to use due diligence in investigating the names and locations of the relatives, including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives.

3. Effect of This Bill

In 2018, the state issued All County Letter (ACL) 18-42 to the state's county welfare departments and county probation departments. ACL 18-42 describes family finding and engagement (FFE) as a "broad concept which encompasses not only the statutory requirements pertaining to identifying, locating and notifying the relatives of a child in foster care, but also related efforts to foster life-long familial connections for children and youth in care." (<https://www.cdss.ca.gov/Portals/9/ACL/2018/18-42.pdf>) ACL 18-42 goes on to name these efforts as an important component of CCR because counties may utilize FFE to identify possible relative or non-relative extended family member placements for children and youth who reside in congregate care settings, potentially allowing them to step down to a home-based care setting. Additionally, ACL 18-42 advised counties to utilize FFE when opening a case as a way to identify the best possible placement for a child or youth. The letter then goes on to advise counties of suggested practices for FFE, including: using the child as a primary information source; having assigned, dedicated staff to conduct FFE activities; and suggestions for follow-up and engagement. ACL 18-42 also informs counties of established FFE models and notes their ability to utilize an established proprietary or independent model. (*Id.*)

This bill proposes to continue efforts to strengthen FFE efforts by requiring counties, through email or other correspondence, to notify CDSS and the Ombudsperson, on or before January 1, 2023, whether the county has adopted one of the suggested practices for family finding described in ACL 18-42. If a county has not adopted one of the suggested practices for family finding described in ACL 18-42, this bill requires the county welfare department to provide a copy of its existing family finding policies and practices, as provided, that are in existence prior to January 1, 2022 to CDSS and the Ombudsperson.