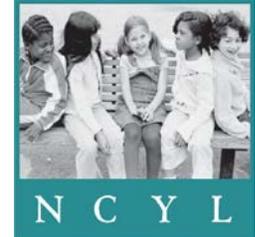




Children's Law Center
of Los Angeles



National Center for Youth Law



The Continuing Need for Implementation of Reform Legislation
Assembly Select Committee on Foster Care
March 7, 2006

In previous years, the Legislature has passed many pieces of important child welfare and foster care legislation to improve the troubled system in which California's foster youth often end up. However, sponsors of these legislative changes have been frustrated by the glacially slow implementation or even the total failure to implement many of these measures that are intended to improve the lives of foster children and youth.

After the Governor signed several important foster care bills last fall, advocates met with the Department of Social Services (DSS) to discuss the importance of timely implementation and to seek some assurances that this new legislation will not suffer the same fate as previously passed legislation. A list of inadequately or entirely unimplemented legislation passed in the last few years was provided to DSS. This list was compiled in an effort to encourage new thinking about ways to collectively address the current inadequate and uncoordinated implementation efforts that frustrate the intent and work of our legislature in passing new laws.

In response to this list, the DSS has noted various bills as having been implemented based on the issuance of an All County Letter (ACL) or an All County Information Notice (ACIN).¹ While we appreciate the work that goes into these guiding documents, the issuance of an instructing letter alone rarely results in actual or adequate uniform implementation. Indeed, as the examples set forth below amply demonstrate, we continue to see far too many areas where changes in the law have yet to achieve the intended result in the day to day lives of foster youth.

None of us should be satisfied or deem a law "implemented" simply when notice has gone out to guide the law's implementation. Instead, as collective parents of the children in our foster care system, we should expect strong and collaborative leadership to step forward and proactively see that all aspects of the law are taking hold and that agencies and departments are coming together – in partnership with the law's sponsors and authors – to bring about the changes in the lives of children that the law intended. The actual measuring rod of implementation is ultimately whether the legislated changes are felt "on the ground" by the youth in care.

¹ Even the issuance of requisite written guidance on new laws has been frustrating and slow. DSS has not to date adopted any regulations to implement the identified legislation. The best it can report is that a regulatory package will be "finalized" this spring that will implement a bill (AB 333), which was passed nearly five years ago in 2001.

AB 705 (Steinberg), 2001

This bill requires that siblings removed from their home be placed together when appropriate and was the most recent of many bills to support maintaining sibling relationships. However, youth frequently report that they are separated from their siblings in different placements. In some instances, they are placed in separate cities and separate counties, making maintaining a relationship extremely difficult. Exacerbating the situation further is the difficulty youth have accessing phone calls and visitation with their siblings. Even when the court orders visitation, no one makes the necessary arrangements such as providing transportation or supervision when necessary or required. This is such a critical issue for the youth that they have chosen to include it on the agenda at the last two California Youth Connection (CYC) policy conferences.² Only those issue that pose the biggest problems for the youth are included on the agenda.

AB 899 (Liu), 2001

This bill requires social workers to inform foster youth every six months of their rights in foster care and requires that the list of rights be posed in facilities that care for six or more foster children. Youth across the state report that they have never had a conversation with their social workers about their rights. Many youth state that when they bring up this topic, they are discouraged with statements like “these rights are just going too far- they don’t apply to you.” At a recent forum hosted by CYC in LA, only a handful of current foster youth attending were even aware of these rights.

CYC’s Youth Led Evaluation Project found that 1/3 of foster youth surveyed in Alameda County group homes are unaware of their rights. When youth visited Kern County group homes in the past several months, they saw the rights posted in only half of the group homes despite the law requiring it.

Although the California Ombudsman’s office does some traveling to educate youth and providers, this office has a very limited travel budget and is unable to do the needed outreach. Foster youth are now taking matters into their own hands. One Kern County former foster youth has set up a special line in her home to answer questions from youth about their rights and give advice on how to address violations. CYC chapters in Alameda, San Francisco, Merced, Fresno, and Kern have identified educating foster youth about their rights as their local policy issue.

AB 408 (Steinberg), 2003

This bill requires social workers to submit information to the court as to whether the placing agency has taken steps to identify and maintain at least one significant adult connection for adolescent foster youth living in group home care. Despite this enactment, children over 10 continue to report that their social workers are not making inquiries concerning significant relationships and that little is done to ensure that they are able to remain in sufficient contact with people who are important to them. Lengthy periods of time pass before they are able to contact, visit or spend quality time with those identified individuals. It is also reported by attorneys that social study reports submitted to the courts rarely contain the required information about these important relationships. Similarly, courts are not yet systematically inquiring of children about their significant relationships.

AB 408 further requires that all children in foster care have access to age and developmentally appropriate extracurricular, social and enrichment activities. In an effort to ensure that these activities

² Notably both of these conferences occurred after the DSS release of the ACIN alerting counties to the requirement, which speaks to the need for further implementation efforts.

are afforded to children and youth, the bill calls upon caregivers to apply a prudent parent standard to determine whether or not to grant permission for the child to participate. Children and youth continue to experience challenges when seeking to participate in extracurricular activities, such as sports, clubs, parties, sleepovers, and unsupervised outings. Although caregivers are required to ensure participation and are legally entitled to grant permission for children and youth to engage in age appropriate activities, they continue to report that they are told that permission from the child's county social worker, foster family agency social worker, or the court is required. This results in children often missing the opportunity to engage in the anticipated activity either because permission is not sought or because of delays in obtaining "official" permission.

AB 490 (Steinberg), 2003

This bill and related clean-up legislation (AB1261) were introduced in response to the significant and still growing body of literature and data regarding poor educational attainment for foster children. It is generally agreed upon that without educational stability and support, foster children – children whose only opportunity for a successful adulthood is contingent upon academic success – will continue to lag far behind their peers.

Despite the December 2004 issuance of a ACIN and changes to the Foster Care Ombudsman Resource Directory, neither AB490 nor AB1261 have been implemented in full. Foster children across the state continue to sit out of school waiting for enrollment paperwork to be processed. Foster children continue to find themselves in the wrong classes because their transcripts and other records have not transferred. Foster children continue to find themselves having to change schools with each replacement despite mandates that the child should only change schools if it is in the child's best interest. Children continue to be forced to repeat classes because schools are refusing to accept partial credit from a prior school. Foster parents, group home and foster family agency (FFA) staff, social workers and school personnel are unaware of the rights provided by this important legislation. When they are unaware of the laws, they are not able to effectively advocate for the children the laws are designed to protect.

Implementation problems have also stemmed from an ongoing refusal by one of the largest school districts in the state to share education records and information with social workers, judges and child advocates, despite AB 490's mandate to the contrary. This ongoing difficulty is indicative of the failure of key agencies and leadership to come together collectively to address implementation issues and interpretations of the law.

SB 1178 (Kuehl), 2004

This bill requires child welfare agencies to support whole-family placements for dependent youth and their children. While the Manual of Policy and Procedure may provide for an infant supplement, supporting family placement also demands a culture change where family preservation is a priority. Advocates and community providers report no known changes in practice regarding the identification or utilization "of whole family placements or other placement models that provide supportive family focused care for dependent teens and their children." To the contrary, dependent teens who parent continue routinely to be removed from foster homes and placed in congregate care solely because of the birth of their child. This population represents in some sense the greatest opportunity the child welfare and other auxiliary systems have to realize their mission of serving and protecting children. By supporting and nurturing teen parents and their children we have the chance to create safe and stable futures for two generations of California's children. However, the system response to these young families is anything but supportive. To the contrary, caregivers are held to conflicting standards by the placing agency and CCL, young parents find themselves struggling to stay in school because they lack access to adequate

child care, and in the most egregious situations young parents are separated from their babies because there are simply no available parent-child placements and then later told that their child has now bonded to the foster parent so it is best that the baby be adopted.

We acknowledge that the system is complicated and that the road to full implementation has hurdles to overcome but it is frustrating to think that implementation is defined solely as the issuance of an ACL or ACIN. Training, recruitment, and guidance by the State are critical to ensuring that real changes come about for the children and youth in our state's foster care system.