

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 2830 (Robert Rivas) – As Amended April 15, 2024

**SUBJECT:** Foster care: relative placement: family finding

**SUMMARY:** Requires the California Department of Social Services (CDSS) to adopt a simplified approval process for relatives to become foster care providers in alignment with federal regulations, and to track and report to the Legislature specified data on implementation of the new process. Specifically, **this bill:**

- 1) Requires CDSS, notwithstanding any other law and no later than January 1, 2026, to implement a simplified approval process for relative caregivers to become foster care providers consistent with federal regulations.
- 2) Authorizes CDSS to consult with stakeholders to determine the changes necessary to adopt a simplified process for relative caregivers that achieves the goals of safety, permanency, and well-being for children in out-of-home care. Specifies that the stakeholders shall include, but not be limited to, advocates representing caregivers, advocates representing foster youth, representatives from county child welfare and probation agencies, foster family agencies, tribes, tribal organizations, and tribal consortia.
- 3) Specifies that “relative” has the same meaning as defined in existing law, which means 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, or an extended family member of an Indian child, as defined in the federal Indian Child Welfare Act (ICWA).
- 4) Permits CDSS to choose to use a broader definition of “relative” that includes nonrelative extended family members, as defined in existing law, to mean an adult caregiver who has an established familial or mentoring relationship with the child, as described.
- 5) Requires CDSS, upon implementation of the simplified approval process adopted pursuant to 1) above, and no later than January 1, 2028, to track and report to the Legislature all of the following:
  - a) Whether the number of approved relatives has increased, decreased, or remained the same over time;
  - b) The average length of time required for a relative to receive resource family approval (RFA), and whether the average length of time has increased, decreased, or remained the same over time;
  - c) Whether the placement of youths with relatives has increased, decreased, or remained the same over time;
  - d) Whether relatives experience barriers to timely approval as a resource parent; and,

- e) What, if any, barriers exist that affect implementation of the simplified approval process.
- 6) Specifies that the reporting provisions in 5) above shall become inoperative on June 30, 2029, and, as of January 1, 2030, are repealed, as required by existing law.
- 7) Makes the following findings and declarations:
- a) It is the goal of the child welfare system to maintain cultural and familial bonds whenever possible;
  - b) Children and youth in the child welfare system who are placed with relatives and extended family members experience better outcomes than children and youth who are placed with nonrelatives;
  - c) Relative caregivers experience unique needs and circumstances, including the challenges that stem from emergency placements and the associated financial impacts of providing for a child with little to no preparation;
  - d) The length of time required for a prospective caregiver to receive RFA can vary based on a number of factors;
  - e) Relatives often serve as caregivers in the child welfare system for their family members and typically do not intend to receive placements of youth to whom they are not related; and,
  - f) In recognition of these factors, in the fall of 2023, the federal Administration on Children, and Families (ACF) published Separate Licensing or Approval Standards for Relative or Kinship Foster Family Homes on pages 66,700 to 66,709 of Volume 88 (September 28, 2023) of the Federal Register, effective November 27, 2023, permitting Title IV-E agencies to claim title IV-E federal financial participation on behalf of a child who is placed in a relative or kinship licensed or approved foster family home when the agency uses different licensing or approval standards for relative or kinship foster family homes and non-relative or non-kinship foster family homes.
- 8) Declares it is the Legislature's intent to adopt a simplified approval process for relative caregivers that achieves the goals of safety, permanency, and well-being for children in out-of-home care.

**EXISTING LAW:**

State law:

- 1) States 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. (Welfare and Institutions Code [WIC] § 300.2)

- 2) States legislative intent 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. Further states legislative intent that all children live with a committed, permanent, nurturing family and that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (WIC § 16000)
- 3) Declares the commitment of California to protecting the essential tribal relations and best interest of an Indian child by promoting practices in accordance with federal law, as specified. (WIC § 224(a))
- 4) Requires CDSS, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, to implement a unified, family friendly, and child-centered RFA process to replace the existing multiple processes for licensing foster family homes, certifying foster homes by licensed foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families. (WIC § 16519.5)
- 5) Requires counties to ensure that a resource family applicant completes a minimum of 12 hours of preapproval caregiver training on certain topics, including, the effects of trauma, grief and loss, child abuse and neglect, child development and behavior, health issues in foster care, permanence, well-being and education needs of children, among others. (WIC § 16519.5(g)(13))
- 6) Requires counties to ensure a resource family's responsibility to act as a reasonable and prudent parent, defined as the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities, and to provide a family setting that promotes normal childhood experiences and that serves the needs of the child. (WIC §§ 362.05(c)(1); 16519.5.(g)(13)(m))
- 7) Requires counties to ensure resource families complete a minimum of eight hours of caregiver training annually, to be composed of various topics, as specified. (WIC § 16519.5(g)(14))
- 8) Permits a county to require a resource family or applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care, including understanding the requirements and best practices regarding psychotropic medications, including, but not limited to, court authorization, benefits, uses, side effects, interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications, understanding how to use best practices for providing care and supervision to nonminor dependents and understanding how to use best practices for providing care and supervision to children with special health care needs. (WIC § 16519.5(g)(14))
- 9) Requires a social worker to immediately investigate the circumstances of the child being taken into the custody of the dependency system and attempt to maintain the child with the child's family through the provision of services. (WIC § 309(a))

- 10) Requires a social worker to conduct a search within 30 days to locate and identify all relatives of a youth in the child welfare services (CWS) system. Further, requires a social worker to provide written notification within 30 days of certain information, as specified. (WIC § 309(e)(1))
- 11) States legislative intent to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with their biological family whenever possible, or to provide a permanent placement alternative. (WIC § 16000)
- 12) Requires CDSS to provide technical assistance to encourage and facilitate the county placement agency's evaluation of placement needs and the development of needed placement resources and programs. (WIC § 16001.1)
- 13) Requires bills that impose a reporting requirement to include a provision that repeals the reporting requirement, or makes the reporting requirement inoperative, four years after the date on which the requirement becomes operative. (Government Code § 10231.5)

Federal Law:

- 14) Establishes ICWA, which provides guidance to states regarding the jurisdictional requirements, proceedings of tribal courts, and the custody proceedings involving the removal of Indian children from the custody of their parents. (25 United States Code 1901 § *et seq.*)
- 15) Establishes the Family First Prevention Services Act (FFPSA) to enhance support services to families to help children and youth to remain at home and reduce the use of congregate care placements by increasing options for prevention services and provide Title IV-E reimbursement for evidence prevention services and support for kinship caregivers. (Public Law 115-123)

**FISCAL EFFECT:** Unknown, this bill has not been analyzed by a fiscal committee.

**COMMENTS:**

**Background:** *Child Welfare Services.* California's CWS system exists to protect children from abuse and neglect, and in doing so, provides for their health, safety, and overall well-being. When suspicions of abuse or neglect arise, often as a result of a report by a mandated reporter like a doctor or teacher, Child Protective Services is tasked with investigating the report. If the allegation of abuse or neglect is substantiated, it is then determined whether it is in the best interest of the child to remain in their parent's custody or be placed within the CWS system. If a child is suspected to be at risk of neglect, abuse, or abandonment, the juvenile court holds legal jurisdiction, and the CWS system appoints a social worker to ensure that the needs of a youth are met. As of January 1, 2024, there are 43,633 youth between birth and 20 years of age placed in foster care in California.

*Continuum of Care Reform (CCR).* Beginning in 2015, California has enacted legislation, known as 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.

*Resource Family Approval.* The RFA Program, authorized by AB 340 (Hancock), Chapter 464, Statutes of 2007, and SB 1013 (Committee on Budget and Fiscal Review), Chapter 35, Statutes of 2012, implemented RFA statewide on January 1, 2017. RFA is a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship approval processes. 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. The development of a unified RFA process replaced previous multiple processes for licensing foster homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive families. A resource family considered eligible to provide foster care for related and unrelated children in out-of-home placement is considered approved for adoption or legal guardianship and does not have to undergo any additional approval or licensure processes.

Part of the RFA process includes comprehensive training requirements for both resource family applicants and individuals who have been approved as resource families. Specifically, resource family applicants must undergo 12 hours of preapproval caregiver training on a variety of topics, including an overview of the child protective and probation systems; the effects of trauma on child development; positive discipline and the importance of self-esteem; and, health issues in foster care, among others. Approved resource families are required to complete annual caregiver training on a variety of topics, including a resource family's responsibility to act as a reasonable and prudent parent, and to provide a family setting that promotes normal childhood experiences and that serves the needs of the child. Current law also allows a county to require a resource family or resource family applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care.

*Tribally Approved Homes.* Pursuant to ICWA, a federally recognized Indian tribe or tribal agency is permitted to approve a home for the foster or adoptive placement of an Indian child (although it is not required to do so). These tribally approved homes are not subject to state licensing approval standards, with the exception of requirements related to criminal background checks. Tribes and tribal agencies have the independent authority to approve homes using their own socially and culturally appropriate standards and are not subject to California's RFA requirements.

*Final Rule.* As noted in the findings and declarations, on September 28, 2023, the federal ACF published a final rule regarding licensing and approval standards for kinship placements, permitting Title IV-E agencies to claim Title IV-E federal financial participation on behalf of a child who is placed in a relative or kinship licensed or approved foster family home, when the agency uses different licensing or approval standards for relative or kinship foster family homes and non-relative or non-kinship foster family homes. The key points of the final rule include the following:

- *Separate Licensing Standards:* Title IV-E agencies are now allowed to adopt different licensing or approval standards for relative or kinship foster family homes compared to non-

relative foster family homes. This flexibility aims to place fewer burdens on kinship families while ensuring safety and well-being;

- *Equal Foster Care Maintenance Payments (FCMP)*: During periodic reviews, Title IV-E agencies must ensure that children receive the same amount of FCMP whether placed in a licensed or approved relative, kinship, or unrelated foster family home. This requirement ensures equitable financial support for all types of foster placements; and,
- *Definition of “foster family home”*: The rule aligns the definition of a “foster family home” with changes made by the FFPSA. It limits the definition to the “home of an individual or family” and requires the foster parent to reside in the home with the child. ACF encourages all Title IV-E agencies to adopt licensing or approval standards for relative or kinship foster family homes that place as few burdens on these families as possible, consistent with ensuring the safety and well-being of children in foster care.

Specifically, ACF encourages Title IV-E agencies to strongly consider developing standards for relative and kinship foster family homes that meet only the requirements for licensing or approval standards established by the licensing authority that are reasonably in accordance with recommended standards of national organizations for foster family homes related to admission policies, safety, sanitation, protection of civil rights, and use of the reasonable and prudent parenting standards, and ensuring that the relative or kin fully meets federal requirements for criminal background checks for all foster parents.

While separate licensing standards for relatives differ from the recent reforms California has undertaken to create one, simplified process for approving caregivers, the federal guidance recognizes the importance of removing barriers to placing youth with family and others who are familiar to the youth who is already experiencing trauma by being removed from their home.

*This bill* would require CDSS to implement a simplified approval process for relative caregivers to become foster care providers consistent with federal regulations. As part of developing the simplified process for relatives, CDSS will consult with stakeholders that include advocates representing caregivers, advocates representing foster youth, representatives from county child welfare and probation agencies, foster family agencies, tribes, tribal organizations, and tribal consortia. Upon implementation of the simplified process, CDSS would be required to submit a report to the Legislature on whether the number of approved relatives has increased, decreased, or remained the same over time, among other data points that will help to measure the effectiveness of the new process.

**Author’s Statement:** According to the Author, “[This bill] seeks to increase placement of foster youth with relatives and kin by requiring CDSS to adopt a simplified approval process for relative caregivers, and by requiring CDSS to track and report to the Legislature certain data and outcomes about how the simplified approval process is working. We know that youth have better outcomes when they are placed with relatives; by increasing the number of youth placed with relatives, this bill will have positive impacts on outcomes for foster youth and will help ensure youth remain connected to their family and their community.”

**Equity Implications:** The provisions of this bill seek to align California’s relative caregiver approval process with federal regulations that create a separate licensing and approval standard for relatives and kin who take foster youth in their home. As noted by ACF, “Separate licensing

or approval standards can have an especially strong impact on underserved groups that traditionally rely more heavily on kin and family in times of need. Adopting separate licensing standards enables Title IV-E agencies to provide more support to low-income prospective relative and kin caregivers, many of whom are families of color, are from underserved rural areas, or are members of other communities in which long-term systemic factors such as poverty hamper families from making intergenerational progress.”

Because California seeks to place children with relatives whenever possible in order to maintain familial ties and cultural bonds, this bill aligns with that goal by ensuring that barriers are removed for relative placement. Children in kinship care, rather than non-kinship care, have better outcomes including more placement stability, lower rates of re-abuse and institutional abuse, better behavioral and mental health, higher likelihood of achieving permanency.

#### **RELATED AND PRIOR LEGISLATION:**

***SB 407 (Wiener), Chapter 226, Statutes of 2023***, required resource families to demonstrate an ability and willingness to meet the needs of a child, regardless of the child's sexual orientation, gender identity, or gender expression, and adds specified responsibilities to counties related to ensuring that foster youth will be placed with lesbian, gay, bisexual, transgender, questioning, or another diverse identity-affirming resource families.

***SB 584 (Jones), Chapter 548, Statutes of 2021***, expanded existing mandatory training for resource families and resource family applicants to include information on providing care and supervision to children who have been victims of child labor trafficking.

***SB 354 (Skinner), Chapter 687, Statutes of 2021***, adopted changes to the criminal background check process during the RFA process for relatives of children placed in the child welfare system; permitted the court to authorize placement of children with relatives in certain circumstances, regardless of the status of any criminal exemption or RFA; and, required CDSS to submit a report to the Legislature related to criminal record exemptions.

***AB 366 (Blanca Rubio), Chapter 581, Statutes of 2021***, adopted changes to existing provisions on the placement of siblings within the child welfare system.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Alliance for Children's Rights  
Aspiranet  
Steinberg Institute

##### **Opposition**

None on file.

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