

Date of Hearing: April 2, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 2664 (Bryan) – As Introduced February 14, 2024

SUBJECT: Foster youth

SUMMARY: Clarifies the dates a child will be deemed to have entered foster care for the purpose of establishing timelines for the provision of reunification services. Specifically, **this bill** specifies, when a child is returned to their home after a dispositional hearing, and subsequently removed through another petition as a result of new facts or circumstances or a modification of a previous order, the child is deemed to have entered foster care on the jurisdictional hearing held pursuant to the subsequent petition, or the date that is 60 days after the date the child was initially removed from the physical custody of their parent via the subsequent petition, whichever date is earlier.

EXISTING LAW:

State law:

- 1) Establishes the juvenile court with jurisdiction over children who are subject to abuse or neglect. (Welfare & Institutions Code [WIC] §§ 300 *et seq.*)
- 2) Establishes that the purpose of the juvenile court dependency system is the maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that the focus is on the preservation of the family, as well as the safety, protection, and physical and emotional well-being of the child. (WIC § 300.2.)
- 3) Requires if, at the initial hearing the juvenile court orders a child removed from their parent or guardian due to abuse or neglect, the court to order child welfare reunification services to the family as soon as possible in order to reunify the child with their family, if appropriate. (WIC § 319(e))
- 4) Specifies that in any case in which a minor has been found to be a under the jurisdiction of the dependency court, and the petitioner alleges new facts or circumstances, other than those under which the original petition was sustained, sufficient to state that the minor is a dependent, the petitioner is required to file a subsequent petition. (WIC § 342)
- 5) Requires an order changing or modifying a previous order by removing a child from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private or county institution, to be made only after noticed hearing upon a supplemental petition. (WIC § 387)
- 6) Outlines the court's actions after hearing evidence in a case involving a minor and requires the court to make a finding as to whether a minor is a dependent and the specific instances under which the petition is sustained. If the court does not find the minor to a dependent, the court is required to dismiss the petition and to discharge the minor from any detention or restriction theretofore ordered. If the court finds that the minor is a dependent, the court is required to make and enter its findings and order accordingly. (WIC § 356)

- 7) Specifies that regardless of their age, a child is deemed to have entered foster care on the earlier of two dates: either the jurisdictional hearing or the date that is 60 days after the date on which the child was initially removed from the physical custody of their parent or guardian. (WIC § 361.49)
- 8) States that the Legislature has recognized that a parent who has a child removed for neglect, abuse or substantial risk thereof, in most cases should be provided with services to assist the parent in overcoming the problems that led to removal. (WIC § 361.5.)
- 9) Requires the court, at the dispositional hearing, to order a social worker to provide child welfare services to a child who has been removed from their parents' custody, and to the parents in order to support the goal of reunification, for a specified time period, except under certain circumstances. Provides that children and families in the child welfare services system should typically receive a full six months of reunification services if the child is under three years of age, and twelve months if the child is over three years of age, but that may be extended up to 18 or 24 months, as provided. (WIC § 361.5(a))
- 10) Specifies that reunification services need not be provided if the court finds, by clear and convincing evidence, that specified conditions exist, including circumstances where the parent is suffering from a mental disability that renders them incapable of using the reunification services; the parent has caused the death of another child through abuse or neglect; the child or a sibling has been adjudicated a dependent as the result of physical or sexual abuse; the parent has been convicted of a violent felony; or, the parent has a history of drug or alcohol abuse and has failed to comply with treatment programs, as provided. (WIC § 361.5(b))
- 11) Prevents a court from ordering reunification services for a parent in specified situations, including the situations set forth in 9) above, unless the court finds, by clear and convincing evidence, that reunification is in the child's best interest. (WIC § 361.5(c))
- 12) Requires the court, if a parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security (DHS), or has been deported to the parent's or guardian's country of origin, to order reasonable reunification services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. (WIC § 361.5(e))
- 13) Requires a permanency planning hearing to occur within 18 months after the date the child was originally removed from the physical custody of their parent. (WIC § 366.22(a)(1))
- 14) Allows the court to postpone the permanency review hearing for up to six months when it is in the child's best interests to have additional services provided to any of the following: a parent or guardian making significant progress in a substance abuse treatment program; a parent who was either a minor parent or a dependent parent at the time of the initial hearing and is making significant progress in establishing a safe home for the child's return; or a parent who was recently discharged from incarceration, institutionalization, or the custody of DHS and is making significant progress in establishing a safe home for the child's return. (WIC § 366.22(b))

Federal law:

- 15) Establishes the Adoption and Safe Families Act (AFSA) which sets specific timeframes for permanency hearings among other provisions related to reunification efforts. AFSA also requires state plans for foster care and adoption assistance to include procedures for criminal records checks for prospective foster and adoptive parents. (Public Law 105-89)
- 16) Defines “family preservation services” to mean services for children and families designed to help families at risk or in crisis, including service programs designed to help children safely return to families from which they have been removed; intensive family preservation programs to help children at risk of foster care placement remain safely with their families; service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement; respite care of children to provide temporary relief for parents and other caregivers; services designed to improve parenting skills, family budgeting, coping with stress, health, and nutrition; and infant safe haven programs. (42 United States Code 629a § 431)

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

COMMENTS:

Background: *Child Welfare Services.* California’s child welfare services system was established with the goal of protecting youth from abuse and neglect and is designed to provide safety, health, and overall well-being of children. When a child is identified as being at risk of abuse or neglect, reports can be made to either law enforcement or a county child welfare agency. Often, these reports are submitted by mandated reporters who are legally required to report suspicion of child abuse or neglect due to their profession, such as a teacher or healthcare provider. When a mandated reporter submits a report to either law enforcement or the county child welfare agency, a social worker determines whether the allegation is of suspected abuse, neglect, or exploitation, and creates a case plan which includes the provision of relevant services. The child's social worker and the court collaborate to evaluate and review the circumstances of each case, seeking either reunification or placement outside of the home as a way for the child to achieve permanency.

The court will then determine whether the allegations can be substantiated and if the child can safely remain at home. If the court orders a child to be placed outside of the home, the parent usually receives court-ordered family reunification services. Upon completion of the services, in addition to making any changes or improvements described in the case plan, the court may dismiss the child’s court case and the county welfare department case will also be closed. If a parent does not participate in the services set forth in the reunification plan, the court can terminate the services, and therefore change the reunification goal to one of finding a permanent home with a caring adult.

California's child welfare services are administered by the 58 individual counties with each county organizing and operating its own program of child protection based on local needs while adhering to state and federal regulations. When a child welfare case is open, counties are the primary governmental entity interacting with children and families when addressing issues of child abuse and neglect and are responsible, either directly or through providers, for obtaining or providing the interventions and relevant services to protect children and assist families with issues related to child abuse and neglect.

The California Department of Social Services secures federal funding to support child welfare services programs, provides statewide best practices training for social workers, and conducts program regulatory oversight and administration, and is responsible for the development of policy while also providing direct services such as adoption placements.

As of October 1, 2023, there were 45,044 youth from birth up to the age of 21 in foster care in California.

Juvenile Dependency Removal Processes. When there is suspicion of child abuse or neglect, and a social worker has completed an investigation there are four possible outcomes: 1) no action taken because there was no evidence of abuse neglect that requires court involvement; 2) voluntary services are offered that are designed to assist a parent better care for a child; 3) the child remains in a parent's custody, but petition with the court is filed to ask the court to open a case to protect your child; or 4) the child is removed from the home and a petition is filed that asks the court to open a case.

When a child is removed from the home, the initial court hearing must happen the same day the petition is filed and is called a detention hearing. When a child is not removed from the home, an initial court hearing takes place within 15 days after the petition.

Following the initial or detention hearing, a jurisdiction hearing takes place. At the jurisdiction hearing the judge will decide whether the allegations in the petition are true. If the judge decides the allegations are true, the child will become a dependent of the court. It is important to note that becoming a dependent of the court does not mean a child must live without their parents. Meaning, if a child was temporarily removed at the detention hearing, then they could be ordered to return back home to parent(s). Temporary removal hearings and dispositional hearings might happen months apart or they might happen at the same time.

Proceeding the jurisdictional hearing, there is a disposition hearing. Disposition hearings are where the judge will decide the next best steps, also called a reunification plan.

Reunification Services. When children are removed from their families and placed into foster care, county child welfare agencies are required to help reunify families by providing reunification services, with a limited number of statutory exceptions. For example, reunification services are not required when the parent is suffering from a mental disability that renders the parent incapable of using the services, or if the parent has caused the death of another child through abuse or neglect. Reunification services give parents the opportunity to fix the problems that led to the removal of their children, before their parental rights are permanently terminated and their children are eligible for adoption. Parents struggling with substance use are given access to treatment programs and drug court. Other parents are given mental health care, parenting classes, and other vital services.

Because dependency court runs on strict timelines, parents are given only a limited amount of time, sometimes as little as six months, to reunify with the children before there is a request to initiate the termination of their parental rights. For most families, the maximum amount of time to reunify with children in foster care is 18 months.

A recent appellate case (*In re Damian L. (2023) 90 Cal. App. 5th 357*) specifically addressed whether statutory timelines change based upon whether a parent is granted family maintenance or family reunification services at disposition. At issue in this case was whether additional reunification services should have been provided to the mother for her two dependent children

when subsequent petitions to remove the children from her home were filed based on new information.

According to the brief, it was found that the court had erred by not considering the entire time period since the children's initial removal when calculating the 18-month limit on reunification services, and as result, the mother had received approximately 26 months of services after the children were initially taken into protective custody. This case suggested that because of a temporary removal, families could be timed out of reunification services, despite never actually receiving these services and that a parent could run out of time to reunify with their children, without ever receiving the full services included in the reunification process. As part of the case, the court reviewed the specific statutory language and broader statutory context and concluded that "[d]elays in the timing of one hearing should not affect either the timing of subsequent hearings or the length of services to be ordered." (*Tonya M.*, *supra*, 42 Cal.4th at p. 846.)

This bill clarifies the timelines for the provision of family reunification services by specifying that when a child is returned to their home after a dispositional hearing, and subsequently removed through another petition as a result of new facts or circumstances or a modification of a previous order, the child is deemed to have entered foster care on the earlier of two dates: the jurisdictional hearing held pursuant to the subsequent petition, or the date that is 60 days after the date the child was initially removed from the physical custody of their parent via the subsequent petition. By clarifying this timeline, families who are receiving family reunification services can be assured of when the provision of services will begin and end.

Author's Statement: According to the Author, "[This bill] will prevent counties from prematurely terminating a parent's right to their child by clarifying that the deadline for family reunification should not start until the dispositional hearing where reunification services are actually ordered. For years, this has been the practice across counties in California; however, a recent court case created confusion around these timelines, leading to situations where parents are losing months of critical time needed to work toward reunifying with their child. For a system that only affords parents 6 to 18 months to fight for their child, every day counts. This bill will ensure that parents are actually granted the time that is already promised to them by law."

Equity Implications: The provisions of this bill clarify the timelines for when a child has "entered foster care" by applying the same criteria used in cases determining whether a child is considered a dependent, to proceedings where a child is subsequently removed through another petition as a result of new facts or circumstances or a modification of a previous order. By clarifying that the criteria for determining the date a foster child has entered into care is the same for subsequent petitions, all families will have the same amount of time to correct and address any of the issues that brought them into the child welfare system.

Research has indicated that the majority of families involved with the child welfare system have incomes below the federal poverty line, are overrepresented by certain racial and ethnic groups, and are often single-parent households living in low-income neighborhoods. These families are dependent on the services they receive in order to stabilize their lives and when courts determine that social service agencies have deprived parents of the resources they are entitled to, there is no expectation to extend services beyond the 18-month timeline unless a parent is incarcerated, participating in a substance abuse program, or a parent is subject to an immigration hold. This bill will include families who were not given reasonable time to utilize services as a circumstance that will permit courts to grant an extension of services.

Double referral: Should this bill pass out of this committee, it will be referred to the Assembly Judiciary Committee.

RELATED AND PRIOR LEGISLATION:

AB 954 (Bryan), Chapter 552, Statutes of 2023, prohibits a parent or guardian's participation in court-ordered child welfare services from being considered to be noncompliant when there is evidence they are unable to pay for a service, or that payment for a service would create an undue financial hardship.

SB 1085 (Kamlager), Chapter 832, Statutes of 2022, prohibited a child from being found to be a dependent of the juvenile court solely due to: homelessness; indigence or other conditions of financial difficulty, including, but not limited to, poverty or the inability to provide or obtain clothing, home or property repair, or childcare. SB 1085 also stated legislative intent that families not be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based on conditions of financial difficulty, including but not limited to, a lack of food, clothing, shelter or childcare.

AB 706 (Committee on Human Services), Chapter 120, Statutes of 2009, made technical, clarifying, and conforming changes to provisions related to providing reunification services and scheduling of juvenile court review hearings, and established that regardless of their age, a child is deemed to have entered foster care on the earlier of the date of the jurisdictional hearing or the date that is 60 days after the date on which the child was initially removed from the physical custody of their parent or guardian.

AB 2341 (Maze), Chapter 457, Statutes of 2008 changed the statutes governing reunification services to ensure that children and families in the child welfare system should receive a full six months of reunification services if the child is under three years of age, and twelve months if the child is over three years of age.

REGISTERED SUPPORT / OPPOSITION:

Support

Children's Law Center of California (Co-Sponsor)
Dependency Legal Services (Co-Sponsor)
Los Angeles Dependency Lawyers, INC. (Co-Sponsor)
Aouon Orange County
California Alliance of Caregivers
Dependency Advocacy Center
John Burton Advocates for Youth
The Law Offices of Dale Wilson

Opposition

None on file

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