

Date of Hearing: March 25, 2025

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 680 (Ahrens) – As Introduced February 14, 2025

SUBJECT: Public social services: foster care benefits

SUMMARY: Revises county requirements when reviewing a foster youth's eligibility for entitled foster care benefits. Specifically, **this bill:**

- 1) Requires the county to make an initial determination of the benefit amount to which a foster youth is entitled within 30 days of the juvenile court's initial order to detain the child pursuant to the initial petition hearing when the social worker reports to the court on the reasons why the child has been removed from the parent's physical custody.
- 2) Requires the county to review a child or nonminor dependent's (NMD) eligibility for foster care benefits and benefit amount each time the county receives information indicating the youth may be entitled to a different amount of foster care benefits or may be eligible for foster care benefits under a program other than the one under which they are currently receiving benefits.
- 3) Clarifies that a county is deemed to have received information indicating that there has been a change in circumstances for a youth who was placed in a home on an emergency basis at the time the home is subsequently approved under the Resource Family Approval program.
- 4) Requires the review to include an examination of any circumstances of a foster youth that are subject to change and could affect the youth's potential eligibility or payment benefit amount, including, but not limited to, authority for placement, eligible home or facility, needs, and age. Requires, if the county determines that it needs additional information to determine a youth's eligibility for a specific foster care benefit program, the county to solicit that information from the child's caregiver or the NMD.
- 5) Requires the county, if a county determines that a youth is no longer eligible for foster care benefits under the program from which they are currently receiving foster care benefits, but is eligible for foster care benefits under another program, to ensure that the youth receives the foster care benefits to which they are entitled under the new program. Requires foster care benefits to continue to be provided at the same rate as immediately prior to the review, without interruption, while the county is undertaking this administrative procedure.
- 6) Requires the county, if the county makes the determination described in 5) above, to provide a notice of action (NOA) to the caregiver of the child or the NMD that includes, at a minimum, all of the following information:
 - a) An advisement that the program under which their foster care benefits are provided has changed;
 - b) The name of the new program under which their foster care benefits are being provided and an explanation of that program; and,

- c) A description of their administrative hearing rights relative to that determination.
- 7) Requires a county, if a county determines pursuant to a review, that a youth is no longer eligible for foster care benefits under any program, to provide a NOA to the caregiver of the child or to the NMD identifying the foster care benefits programs for which their eligibility was assessed and the specific reason that the youth was determined ineligible for those programs.
- 8) Provides that for purposes of these provisions, “foster care benefits” means benefits provided under any of the following programs:
 - a) The state- and federally funded Kinship Guardianship Assistance Payment Programs (Kin-GAP Program);
 - b) Aid to Families with Dependent Children—Foster Care (AFDC-FC);
 - c) The Approved Relative Caregiver (ARC) Funding Program; and,
 - d) The Adoption Assistance Program (AAP).

EXISTING LAW:

- 1) Requires the court, at the initial petition hearing, to review the report described in 2) below and examine the child’s parents, guardians, Indian custodian (parents), or other persons having relevant knowledge and hear the relevant evidence. (Welfare and Institutions Code [WIC] § 319(a))
- 2) Requires the social worker to report to the court the reasons why the child has been removed from the parent’s physical custody, the need, if any, for continued detention, the available services and the referral methods to those services that could facilitate the return of the child to the custody of the child’s parents, and whether there are any relatives who are able and willing to take temporary physical custody of the child. (WIC § 319(b))
- 3) Requires relatives to be given preferential consideration for placement of the child. 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. (WIC § 319(h)(2))
- 5) Establishes eligibility criteria for receiving AFDC-FC, which is provided to youth who meet specified conditions including when parental rights have been terminated, have been removed from their home due to safety concerns, or are an NMD under the care of child welfare services or re-entering foster care. (WIC § 11401)
- 6) Enumerates the requirements for AFDC-FC benefits for youth living with nonrelated legal guardians. (WIC § 11405)
- 7) Establishes the ARC Funding Program for the purpose of making the amount paid to an approved relative caregiver for the in-home care of children and NMDs placed with them

who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children and NMDs who are eligible for AFDC-FC payments. (WIC § 11461.3(a))

- 8) Makes legislative findings and declarations that the Kin-GAP Program is intended to enhance family preservation and stability by recognizing that some dependent children and wards of the juvenile court are in long-term, stable placements with relatives, and that there is no need for continued governmental intervention in the family life through ongoing, scheduled court and social services supervision of the placement. Declares that the state-funded Kin-GAP Program is necessary to ensure that wards and dependent children of the juvenile court whose placement in the home of an approved relative are equally eligible for the benefits derived from legal permanency with the related guardian and that the state can maximize improvements to federal permanency outcome measures by exiting non-federally eligible youth to the state's subsidized Kin-GAP Program. (WIC § 11361)
- 9) Requires the California Department of Social Services (CDSS) to enter into kinship guardianship assistance agreements to provide federally funded kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as approved relative caregivers and for whom they have committed to care on a permanent basis. (WIC § 11385(a))
- 10) Establishes the AAP, administered by CDSS, to support families adopting children who might otherwise remain in long-term foster care. (WIC 16115 *et seq.*)
- 11) Clarifies the obligation of the county to assess all sources of aid under the Medi-Cal program. (WIC §§ 14005.31-14005.39)
- 12) Defines a "nonminor dependent" as a current or former foster youth who is between 18 and not more than 20 years of age, in foster care under the responsibility of the county welfare department, county probation department, or Indian tribe, and participating in a Transitional Independent Living Plan (TILP). (WIC § 11400(v))

Federal law:

- 13) Authorizes states to seek federal reimbursement for certain costs of providing foster care for children who can no longer safely remain in their homes. (42 United States Code § 672)

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

COMMENTS:

Background: *Child Welfare Services.* California's child welfare services system exists to protect children from abuse and neglect, and in doing so, to provide for their health, safety, and overall well-being. When suspicions of abuse or neglect arise, Child Protective Services is tasked with investigating the allegations. 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 child welfare services system. If a child is suspected to be at-risk of neglect, abuse, or abandonment, the juvenile court holds legal jurisdiction, and a social worker is appointed to ensure that the needs of the youth are met. California's child welfare services

programs 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.

CDSS secures federal funding to support child welfare services programs, provides statewide best practices training for social workers, 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, 2024, there were 40,165 youth from birth up to 21 years of age in foster care.

Foster care benefits are paid when the child meets one of the conditions below:

- The child is a dependent or ward of the juvenile court who is placed and supervised by the county or probation department.
- The child is voluntarily placed into care by their parent.
- The child is living with a nonrelated legal guardian and is supervised by the county or probation department.
- The child is living with a relative and the child meets certain eligibility criteria.

Financial support is provided to children and youth in foster care through various federal and state programs. Foster care payments are required to cover the cost to the caregiver of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance, travel to the child's prior home for visitation, and for the child to remain in the school in which the child was enrolled at the time of placement. Foster care payments are not income to the caregiver.

Foster care payments vary with the type and location of the child's placement, the age of the child, and any specialized care which may be needed. Specialized care provides a supplemental payment to the family home provider, in addition to the family home basic rate, for the cost of supervision to meet the additional daily care needs of a child who has additional health or behavioral needs. Medical and dental coverage is provided through the Medi-Cal program for all foster youth.

Extended Foster Care. As a result of the passage of AB 12 (Beall), Chapter 559, Statutes of 2009, foster youth between the ages of 18 and 20, also known as NMDs, are eligible for extended foster care. Extended foster care is a benefit available to eligible youth to assist them to achieve self-sufficiency and includes educational opportunities, employment trainings, and supervised independent living environments. For a foster youth to be eligible for extended foster care, they must continue to be under the responsibility of the county welfare department, county probation department, or Indian tribe, and participate in a TILP. When an NMD ages out of extended foster care at 21 years of age, state law provides for various exit requirements to ensure

the youth are provided with all the necessary information to thrive in their transition to adulthood.

Federal and State AFDC-FC. Funding to provide for the needs of youth in California's foster care system is provided by either the state or federal government. Federal AFDC-FC, also referred to as Title IV-E funding, is the aid provided on behalf of needy children in foster care who meet the eligibility requirements, as specified in department regulations and in applicable federal laws. In order to be eligible for federal AFDC-FC, the home from which a foster youth was removed must meet AFDC-FC eligibility criteria from 1996. Specifically, during the month of removal or one of the six months prior to removal, the youth must have been eligible for or receiving federal public assistance as of July 16, 1996, in that home. In 1996, the monthly income limit for a family of three to qualify for AFDC-FC was \$723.

Because the criteria to receive federal AFDC-FC funding is rarely met due to the limit being so low, California created state AFDC-FC, which blends state and county funds to provide for youth who are otherwise ineligible for federal AFDC-FC. Under state AFDC-FC, counties provide payments to foster care providers on behalf of qualified children in foster care according to a schedule of basic rates, administered by CDSS, to pay for the care and supervision of each foster child. In summary, state AFDC-FC is primarily funded and governed by state-specific rules, while federal AFDC-FC involves a combination of federal, state, and county resources.

Current law requires CDSS to administer a state system for establishing rates within in the state AFDC-FC program. It also requires a rate structure that remained effective through December 31, 2022, for specified rates paid to certified family homes of foster family agencies, short-term residential therapeutic programs, and foster family agencies providing treatment, intensive treatment, and therapeutic foster care programs. In 2022, a two-year extension was granted for the payment of interim rates within the state AFDC-FC program. CDSS has finalized a new, permanent rate structure, set to take effect in 2026, which will be based on the child's assessed level of needs and strengths, rather than the placement type. Full implementation is anticipated as early as Fiscal Year 2026-27.

The AAP provides financial and medical coverage to facilitate the adoption of children who otherwise would remain in long-term foster care. AAP is available to both relative and non-relative families who adopt children from foster care and aims to reduce the financial barriers to the adoption of children. The AAP rate is negotiated with each family, based on the child's basic and special needs and the family's circumstances. The agreed-upon amount is paid directly to the parents, not the youth.

AAP is a realigned program. The 2011-12 Budget realigned \$1.6 billion in state funding for child welfare services, foster care, and adoption programs to the counties. In the first year of this realignment, no changes were made to the state laws governing child welfare services and adoption programs. However, in the 2012-13 budget process, the Administration proposed trailer bill language addressing major themes, all of which were incorporated into SB 1013 (Committee on Budget and Fiscal Review), Chapter 35, Statutes of 2012. SB 1013 also requires counties to report to CDSS on the expenditure of savings generated by maximizing available federal adoption assistance funding.

In 2021, CDSS issued All County Letter (ACL) No. 21-54 to inform counties and other stakeholders about the new rates implementation and to provide instructions on applying the

AAP Level of Care (LOC) Protocol. This protocol helps determine the maximum eligible AAP LOC rate for an AAP-eligible child and ensures a consistent, statewide rate determination process.

The ACL noted that the negotiated AAP rate is based on the child's care and supervision needs and the family's circumstances. The AAP LOC Protocol is a strength-based, rate-setting methodology designed to identify an AAP-eligible child's individual care and supervision needs. It also considers the role of prospective adoptive parents in meeting these needs. The protocol consists of three key components: an instruction guide, a rate determination questionnaire, and an automated digital scoring tool.

State and Federally Funded Kin-GAP Programs. Kin-GAP serves as a permanency option when reunification with parents or adoption is not suitable. It ensures stability for the child by transitioning them from foster care to a permanent home with their relative. Federally funded Kin-GAP receives funds through Title IV-E of the Social Security Act and has specific eligibility criteria tied to federal regulations including the need for a Title IV-E eligibility determination. The state-funded Kin-GAP Program provides financial aid to children in kinship care who are not eligible for federally funded Kin-GAP. A "kinship guardian" refers to a relative appointed as the legal guardian of a dependent child, and "relative" includes individuals related by blood, adoption, or affinity within the fifth degree of kinship. To qualify, a child must be a dependent or ward of the juvenile court and placed with a relative guardian for at least six consecutive months. The relative guardian is required to enter into a written agreement with the county welfare agency, and the juvenile court must establish legal guardianship and terminate the child's dependency or wardship. Kin-GAP offers monthly payments to the relative guardian to help cover the costs of raising the child. These payments can continue beyond 18 years of age and up to 21 years of age, if the child meets certain conditions, such as being enrolled in school or having a documented disability.

The ARC Funding Program provides financial support to relative caregivers of children who are not eligible for federal foster care funding. To be eligible, the caregiver must be approved and meet health and safety standards similar to those required for licensed foster parents. Additionally, both the child and the caregiver must reside in California. Participation in the ARC Funding Program is county-optional, meaning caregivers must reside in a county that has opted into the program.

This bill will require counties to issue a NOA if a child or NMD is determined ineligible for foster care benefits. Providing this notice ensures transparency by explaining the reasons for ineligibility, helping caregivers and youth understand the available supports and services. This information allows caregivers to make informed decisions about how best to support the children in their care and allows older youth to actively engage in their case plan.

Author's Statement: According to the Author, "Existing law authorizes care and supervision benefits to support children and youth in foster care. The State and counties assume parental responsibility and have a moral and legal obligation to support the children and youth in foster care. This obligation underscores the critical importance of ensuring all foster care benefits are available from the time of placement or redetermination to ensure the health and well-being of children and youth in care."

“Identifying and getting the right foster care benefits in place as soon as possible are essential for addressing any immediate physical, emotional, or psychological needs that the child or youth may have due to past trauma or neglect. Ensuring these needs are met early helps children recover and maintain overall well-being as well as promoting placement stability by getting foster care benefits in place timely and appropriately. Lack of action may result in placement instability and unnecessary administrative hearing challenges seeking recovery of available benefits to support the child or youth in foster care.

“If a child or NMD is assessed as ineligible for foster care benefits, [this bill] will require the county to provide a notice of action that explains why they are ineligible. This transparency assists caregivers and youth to better understand the available supports and services and why they may not be eligible for other funding; empowering caregivers to make informed decisions about how to proceed regarding how support the children in their care and older youth to engage in their case plan.

“Caregivers do their best to navigate a complex child welfare system, especially when decisions about a child’s benefits or placement don’t go as expected. They may experience situations in which they don’t fully understand their rights or how to challenge a decision. If the county clearly explains due process and the appeals process, it would save a lot of confusion and frustration and could reduce the number of appeals filed later on.”

Equity Implications: The provisions of this bill set forth an affirmative obligation for the counties to evaluate all possible sources of foster care funding for youth both at the time of placement and upon redetermination. By explicitly mandating counties to evaluate all available foster care aid at both stages, *this bill* aims to ensure that caregivers receive the financial support needed to provide for the health and well-being of the children and youth in their care.

Research shows that the majority of families involved in 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 and financial assistance they receive in order to stabilize their lives while caring for a youth.

RELATED AND PRIOR LEGISLATION:

AB 2477 (Zbur), Chapter 237, Statutes of 2024, clarified that an NMD who re-enters foster care and is ineligible for federal financial participation, is eligible to receive aid in the form of state AFDC-FC.

AB 12 (Beall), Chapter 559, Statutes of 2009, see comments above.

SB 87 (Escutia), Chapter 1088, Statutes of 2000, clarified the obligation of the county to assess for all sources of aid under the Medi-Cal program.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for Children's Rights (Sponsor)

Aspiranet
California Alliance of Caregivers
California Alliance of Child and Family Services
Children Now

Opposition

None on file.

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