

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 1195 (Quirk-Silva) – As Amended April 10, 2025

SUBJECT: Juveniles: incarcerated parent: visitation

SUMMARY: Expands the provisions for orders that place a child in foster care and order reunification services to include requirements for visitation if the parent is incarcerated.

Specifically, **this bill:**

- 1) Requires any order placing a child in foster care, if the parent of the child is incarcerated in a county jail and the court has ordered reasonable services to the parent pursuant to 1) through 4) in existing law below, to provide as follows:
 - a) That the incarcerated parent is entitled to regularly scheduled, in-person visitation and that the county jail shall ensure that the incarcerated parent is made available to attend those regularly scheduled, in-person visits with their dependent child, unless subparagraph b) below, applies or the court finds that in-person visitation between the dependent child and the incarcerated parent would be detrimental to the child's well-being. Requires the court, in determining whether in-person visitation would be detrimental, the court to consider the factors described in 1) in existing law below;
 - b) That the county jail shall facilitate the incarcerated parents participation in regularly scheduled visitation using video conferencing technology or telephonic communication if it is not feasible for regularly scheduled, in-person visitation to take place due to logistical or safety concerns at the county jail;
 - c) That the child welfare agency shall coordinate with the county jail to ensure that the visitation schedule between the incarcerated parent and the dependent child is maintained and that, to the extent possible, there are no logistical barriers preventing incarcerated parents from participating in regularly scheduled visitation;
 - d) That the child welfare agency and county jail shall document all scheduled visits, including, but not limited to, any cancellations of, or delays in, regularly scheduled visitation, and include a written explanation for any missed visits. Requires this documentation to be submitted to the court at each hearing in the dependency action;
 - e) That the child welfare agency shall ensure the incarcerated parent is notified of their visitation rights, including instructions on how to request visitation, and how to participate in dependency proceedings, in writing, at the commencement of the dependency proceeding, or at the time of their detention, whichever occurs first; and,
 - f) That community-based organizations with licensed visitation monitors may facilitate scheduled visits between an incarcerated parent and the dependent child.

- 2) Makes the following findings and declarations:
 - a) Maintaining the parent-child relationship while a parent is incarcerated reduces emotional trauma for children, improves family reunification outcomes, and decreases recidivism rates; and,
 - b) Maintaining family bonds is a critical component of the reunification process and the overall well-being of children in the foster care system.
- 3) Declares it is the Legislature's intent in enacting this act, to remove barriers that prevent incarcerated parents from participating in their dependent children's lives and ensures that county jails and child welfare agencies prioritize family connections.

EXISTING LAW:

- 1) Requires the court to order reasonable services if the parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security, or has been deported to the parent's or guardian's country of origin, unless the court determines, by clear and convincing evidence, those services would be detrimental to the child.
 - a) Requires, in determining detriment, the court to consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations, and any other appropriate factors.
 - b) Requires, in determining the content of reasonable services, the court to consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with the child, and shall document this information in the child's case plan. Reunification services are subject to specified applicable time limitations.
 - c) Services may include, but shall not be limited to, all of the following:
 - i) Maintaining contact between the parent and child through collect telephone calls;
 - ii) Transportation services, when appropriate;
 - iii) Visitation services, when appropriate;
 - iv) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child. An incarcerated or detained parent may be required to attend counseling, parenting classes, or vocational training programs as part of the reunification service plan if actual access to these services is provided. Requires the social worker to document in the child's case plan the particular barriers to an incarcerated, institutionalized, or detained parent's access to those court-mandated services and ability to maintain contact with the child; and,

- v) Reasonable efforts to assist parents who have been deported to contact child welfare authorities in their country of origin, to identify any available services that would substantially comply with case plan requirements, to document the parents' participation in those services, and to accept reports from local child welfare authorities as to the parents' living situation, progress, and participation in services. (Welfare and Institutions Code [WIC] § 361.5(e)(1))
- 2) Permits the presiding judge of the juvenile court of each county to convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child. Requires the county welfare department to utilize the prisoner locator system developed by the Department of Corrections and Rehabilitation (CDCR) to facilitate timely and effective notice of hearings for incarcerated parents. (WIC § 361.5(e)(2))
 - 3) Requires the court, notwithstanding any other law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by CDCR to determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child. (WIC § 361.5(e)(3))
 - 4) Prohibits parents and guardians in custody prior to conviction from being denied reunification services. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or guardian's access to those court-mandated services and ability to maintain contact with the child, and shall document this information in the child's case plan. Reunification services are subject to specified applicable time limitations (WIC § 361.5(e)(4))
 - 5) Requires any order placing a child in foster care and reunification services, in order to maintain ties between the parent or guardian and any siblings and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of their parent or guardian, to provide as follows:
 - a) Subject to subparagraph b) below, for visitation between the parent or guardian and the child. Visitation shall be as frequent as possible, consistent with the well-being of the child;
 - b) No visitation order shall jeopardize the safety of the child. To protect the safety of the child, the court may keep the child's address confidential. If the parent of the child has been convicted of murder in the first degree, and the victim of the murder was the other parent of the child, the court shall order visitation between the child and the parent only if that order would be consistent with existing law restricting custody and unsupervised visits with certain serious convictions;
 - c) For visitation between the child and any siblings, unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child;

- d) For review of the reasons for any suspension of sibling interaction at each periodic review hearing, and for a requirement that, in order for a suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child; and,
- e) If the child is a teen parent who has custody of their child and that child is not a dependent of the court, for visitation among the teen parent, the child's noncustodial parent, and appropriate family members, unless the court finds by clear and convincing evidence that visitation would be detrimental to the teen parent. (WIC § 362.1(a))

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

COMMENTS: This analysis only discusses policy issues germane to the jurisdiction of the Assembly Committee on Human Services.

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 involves suspected abuse, neglect, or exploitation, and creates a case plan that 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 are substantiated and whether the child can 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 programs are administered by the 58 individual counties. Each county organizes and operates 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 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 January 1, 2025, there are 38,894 youth between birth and up to 21 years of age in foster care in California.

The proponents of *this bill* assert that because there is no requirement for county jails and child welfare agencies to coordinate to provide incarcerated parents with regular, in-person visitation with their children, foster youth with incarcerated parents are being deprived of meaningful contact, even when reunification services have been ordered.

Reunification Services. When a child is removed from their parents' custody and it is determined by the courts and in speaking with the child's social worker that the child would ultimately benefit from being returned or reunited with the family, the court may order reunification services in order to address the underlying issues or needs of the family that led to the child's removal in the first place. Reunification services include, but are not limited to: family therapy, parenting classes, substance use disorder treatment, respite care, parent support groups, home visiting programs, and services deemed necessary in order to facilitate a child's reunification with their parents. For children under three years of age, current law allows six months of reunification services; and, for children over three years of years, twelve months of reunification services are to be offered. Extensions of services are available if the court determines that there is substantial probability that a child will return to their parents' custody within the extended time period.

This bill would require, when an order to place a child in foster care with reunification services has been made for a child with an incarcerated parent, for the order to entitle the incarcerated parent to regularly scheduled, in-person visitation and for the county jail to ensure that the incarcerated parent is made available to attend those regularly scheduled, in-person visits with their dependent child unless the court finds that in-person visitation would be detrimental to the child's well-being.

Family Time and Federal Guidance. The Administration for Children and Families under the United States Department of Health and Human Services released an information memorandum (IM) on February 5, 2020, to provide information on best practices for providing children and youth in out-of-home care safely while improving parent and child well-being outcomes. The IM describes viewing child and family contacts during foster care less as "visits" and more as "family time," which can occur when the parent and family participate in normal parenting activities such as sharing meals, school events, or medical appointments. The IM emphasized "the importance of family time and visitation in reducing the trauma of removal and placement of children in out-of-home care, maintaining the integrity of the parent-child relationship, healthy sibling relationships and overall child and family well-being." The IM also provided a recommendation for judges to, "order unsupervised family time unless specifically contraindicated by safety threats to the child or based on the specific needs/circumstances of the child."

Relatedly, existing state law outlines what is to be included in any order that places a child in foster care whose family is receiving reunification services in order to maintain ties between the parent and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of their parent.

This bill aligns with best practices and federal guidance that emphasizes family time and visitation for families involved in the child welfare services system. *This bill* would require child

welfare agencies to coordinate with the county jail to ensure that the visitation schedule between the incarcerated parent and the foster youth is maintained and that, to the extent possible, there are no logistical barriers preventing incarcerated parents from participating in regularly scheduled visitation.

Author’s Statement: According to the Author, “When a parent is incarcerated, a child should not be punished with separation. California law recognizes the importance of the parent-child bond, but too often bureaucratic obstacles and a lack of coordination prevent meaningful visitation. [This bill] ensures that county jails and child welfare agencies uphold the rights of incarcerated parents by requiring regular, in-person visits, unless a court finds, with clear and convincing evidence, that it would harm the child. This bill is about stability, reunification, and breaking the cycles of trauma so that children are not left to bear the weight of a system that was never designed with them in mind.”

Equity Implications: The provisions of this bill are seeking to mitigate the negative effects of parental incarceration on foster youth by requiring county jails and child welfare agencies to facilitate regular, in-person visitation between parents and their children, unless a court finds that in-person visitation would be detrimental to the child’s well-being. According to The Child Welfare Information Gateway, *Bulletin for Professionals 2021*, “There is racial disproportionality regarding the characteristics of incarcerated parents and their children. . .it is widely recognized that people of color are more likely to come to the attention of law enforcement, due in part to over-policing and implicit bias in discretionary practices (Hinton et al., 2018). They are therefore, overrepresented in the U.S. prison (Carson, 2020). By extension, children of color- particularly African American children- are impacted by parental incarceration at disproportionate rates. A study using nationally representative data indicates that 11.5 percent of African-American children have experienced parental incarceration in their lifetime, which is nearly double that of White children (6.0 percent) (Murphey & Cooper, 2015). When examining older African-American children (ages 12 to 17), the percentage increases to 13.6 percent. This statistic is likely an underestimate since it only includes incidences of incarceration for residential parents.”

Policy Considerations: This bill entitles an incarcerated parent to regularly scheduled, in-person visitation with their dependent child when the court has ordered visitation.

Should this bill move forward, the Author may wish to consider including an option for the dependent child to decline in-person visits should they so choose.

Proposed Committee Amendments: The Committee proposes amendment to address policy considerations stated above to do the following:

- Permit dependent children 12 years of age and older to use videoconferencing or telephonic communication in lieu of in-person visits at the county jail. Permit dependent children under 12 years of age to also use videoconferencing or telephonic communication in lieu of in-person visits, with the consent of their caregiver.

Double referral: This bill was previously heard by the Assembly Committee on Public Safety on April 8, 2025, and was approved on a 9-0 vote.

RELATED AND PRIOR LEGISLATION:

AB 926 (Gipson) of the current legislative session, revises requirements for determining supervised and unsupervised visits between a parent and child involved in the dependency process. *AB 926 is pending before the Assembly Committee on Appropriations.*

AB 2159 (Bryan), Chapter 691, Statutes of 2022, prohibited a court from denying reunification services to parents and guardians in custody prior to conviction and sentencing.

REGISTERED SUPPORT / OPPOSITION:**Support**

All of US or None Orange County (Co-Sponsor)
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E) (Co-Sponsor)
A New Way of Life Re-entry Project
ACLU California Action
All of US or None (HQ)
Alliance for Children's Rights
American Academy of Pediatrics, California
California Public Defenders Association (CPDA)
Center on Reproductive Rights and Justice At Berkeley Law
Children's Law Center of California
Communities United for Restorative Youth Justice (CURYJ)
Dependency Advocacy Center
Dependency Legal Services
Ella Baker Center for Human Rights
Family Reunification Equity & Empowerment (F.R.E.E.)
If/When/How: Lawyering for Reproductive Justice
Initiate Justice
Initiate Justice Action
Jesse's Place Org
Legal Services for Prisoners With Children
Los Angeles Dependency Lawyers, INC.
Public Counsel
Reimagine Child Safety Bay Area and Beyond
Seneca Family of Agencies
Smart Justice California, a Project of Tides Advocacy
Starting Over INC.
The Purpose of Recovery INC

Opposition

None on file.

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