

Date of Hearing: March 26, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 1061 (Gipson) – As Introduced February 21, 2019

SUBJECT: Foster care

SUMMARY: Includes probation-supervised foster youth, and responsibilities for probation officers, in provisions of current law stipulating certain processes, requirements, and timelines regarding placement changes for foster youth who are dependents of the court. Specifically, **this bill:**

- 1) Adds probation-supervised foster youth, and responsibilities for probation officers, to provisions of current law that mandate certain processes and timelines related to placement changes for foster youth who are dependents of the court, as follows:
 - a) Expands Legislative intent to prevent children or youth from experiencing unnecessary or abrupt placement changes that have negative impacts to include all children or youth in foster care placement.
 - b) Requires, as is required in current law of a placing agency or social worker, a probation officer to develop and implement a strategy to preserve an existing placement, known as the placement preservation strategy, in consultation with the youth's child and family team, as specified, prior to making changes in a foster care placement of a youth.
 - c) Requires, as is required in current law of a placing agency or social worker, a probation officer to include the placement preservation strategy within the child's case notes in the statewide child welfare information system.
 - d) Requires, as is required in current law of a placing agency or social worker, a probation officer, if that officer finds that a foster care placement change is necessary after implementation of the placement preservation strategy, to serve written notice, at least 14 days before the placement change, on a youth's parent or guardian, caregiver, and attorney, and the youth if that youth is at least 10 years old.
 - e) Expands the prohibition existing in current law on any placement change taking place between the hours of 9 p.m. and 7 a.m. to include probation-supervised foster care placements, and allows exceptions to this prohibition that mirror the exceptions in current law for dependents of the court; these exceptions include the mutual agreement of all of the following:
 - i) The youth, if they are at least 10 years of age, or the representative of the youth if they are under 10 years of age;
 - ii) The youth's current caregiver;
 - iii) The youth's prospective caregiver; and,
 - iv) The youth's social worker or probation officer.

- f) Includes complaints regarding the placement change of a probation-supervised foster youth in the requirement that the Office of the State Foster Care Ombudsperson, if a complaint is made to the office alleging a violation of placement change requirements, and an investigation is made into that complaint, as specified, provide the findings of the investigation to the county child welfare director, or the director's designee, for the purposes of training, technical assistance, and quality improvement.
 - g) Authorizes a probation officer, mirroring the authority granted to social workers and placing agencies in current law, to change a youth's foster care placement without meeting the requirements set forth by this bill and current law in either of the following instances:
 - i) If it is determined that remaining in the existing foster care placement or providing prior written notice of the foster care placement change poses a threat to the health or safety of the youth or other youth in the home or facility; or,
 - ii) If the youth's child and family team and the youth, if they are at least 10 years old, or the representative of the youth, unanimously agree to waive the requirements set forth in the bill related to the placement preservation strategy and 14-day notice of placement change, as specified.
 - h) Stipulates that the provisions of the bill shall only apply to children and youth for whom the juvenile court has entered a judgment and do not apply to a nonminor dependent who is placed in a Transitional Housing Placement program or a supervised independent living facility, as specified.
 - i) Stipulates that the provisions of this bill do not apply to a planned foster care placement change as informed by the youth's child and family team and that is described in the youth's case plan.
 - j) Makes other conforming changes to include probation-supervised foster youth in specified provisions of current law related to placement changes for foster youth who are dependents of the court.
- 2) Makes technical changes.

EXISTING LAW:

- 1) Permits the juvenile court to adjudge a child a dependent of the court for specified reasons, including, but not limited to, if a child has suffered or is at substantial risk of suffering serious physical harm, emotional damage, or sexual abuse, as specified. (Welfare and Institutions Code Section [WIC] Section 300)
- 2) 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. (WIC 300.2)
- 3) Declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of their parents, to

give preferential consideration to placement with relatives. States the intent of the Legislature 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 the intent of the Legislature that all children live with a committed, permanent, nurturing family and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (WIC 16000)

- 4) Requires out-of-home placement of a child in foster care to be based upon selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and the most appropriate setting that meets the child's individual needs, as specified. Further, requires the selection of placement to consider, in order of priority, placement with: relatives, nonrelative extended family members, and tribal members; foster family homes, resource families, and approved or certified homes of foster family agencies; followed by intensive services for foster care homes or multidimensional treatment foster care homes or therapeutic foster care homes; group care placements in the order of short-term residential therapeutic programs, group homes, community treatment facilities, and out-of-state residential treatment, as specified. (WIC 16501.1(d)(1))
- 5) Permits the juvenile court to order and adjudge to be a ward of the court the following individuals, as specified: a minor between the ages of 12 and 17 who has committed a status offense; a minor between the ages of 12 and 17 who violates state or federal law; or, a minor under the age of 12 who is alleged to have committed certain violent crimes. (WIC 725 (b))
- 6) Requires the court, in certain circumstances, to order the care, custody, and control of a minor or nonminor adjudged a ward of the court to be under the control of a probation officer, and authorizes the probation officer to place the minor or nonminor in a number of settings, including, as specified and with age restrictions in some cases: the approved home relative or of a nonrelative, extended family member; a foster home, approved resource family home, or a home or facility in accordance with the federal Indian Child Welfare Act; a suitable licensed community care facility; a foster family agency, in a suitable certified family home or with a resource family; and a group home or short-term residential therapeutic program (STRTP). (WIC 727)
- 7) Enumerates rights of minors and nonminors in foster care, including but not limited to the right to: live in a safe, healthy, and comfortable home where they are treated with respect; be free from physical, sexual, emotional, or other abuse, or corporal punishment; receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance; receive medical, dental, vision, and mental health services; be involved in the development of their own case plan and plan for permanent placement; and review their own case plan and plan for permanent placement, if they are 12 years of age or older and in a permanent placement, and receive information about their out-of-home placement and case plan, including being told of changes to the plan. (WIC 16001.9)
- 8) Defines "nonminor dependent" as a current foster youth or ward of the juvenile court, or nonminor under the transition jurisdiction of the court, who is between 18 and 21 years old, in foster care under the responsibility of the county welfare department, county probation department, or Indian Tribe, and has a transitional independent living plan, as specified. (WIC 11400 (v))

- 9) Establishes the Office of the State Foster Care Ombudsperson within the Department of Social Services (DSS) for the purpose of providing children placed in foster care with a means to resolve issues related to their care, placement, or services. (WIC 16160-16167)
- 10) Requires the Office of the State Foster Care Ombudsperson to investigate and seek to resolve complaints regarding care, placement, or services made by, or on behalf of, foster youth and further, requires the Ombudsperson to document the number, source, origin, location and nature of these complaints and annually report on the complaints to the Legislature, as specified. (WIC 16164)

FISCAL EFFECT: Unknown

COMMENTS:

Child Welfare Services: In California during calendar year 2017, almost 500,000 children had allegations of child abuse or neglect made regarding them. Of these children, approximately 71,000 (14%) had allegations that were substantiated, and 28,000 (40% of children with substantiations) were removed from their homes and entered foster care via the state's Child Welfare Services (CWS) system. (However, children who have reports of abuse or neglect substantiated but are not removed from the home may also receive, along with their families, family maintenance services; these services may in some instances be ordered by the court and, in others, based upon a voluntary agreement with the parent where the courts is not involved. Family maintenance services typically involve a social worker working with a family in the home to prevent and remedy abuse and neglect, and can include a variety of services such as counseling, parent education, respite care, substance use disorder treatment, domestic violence intervention, and victim services.)

The CWS system serves to protect children from abuse and neglect, and to provide for their health and safety. When a county juvenile court finds that a youth is subject to or at substantial risk of maltreatment warranting their removal from the home, the court holds legal jurisdiction over the youth. A youth is served by the CWS system through the appointment of a social worker, and many opportunities exist during which the custody of the youth, or their placement outside of the home, must be evaluated, reviewed and determined by the judicial system, in consultation with the youth's social worker, to help provide the best possible services to the youth. When a youth has been removed from the home, the goal of the CWS system is, often, to reunify them with their parents or guardians, whenever appropriate. When a youth's reunification with their family is not appropriate, the second highest placement priority of the CWS system is to place youth with other relatives or nonrelative extended family members. Youth may also be placed in foster homes – referred to as “resource family” homes – overseen by either the county or a foster family agency. Specialized placement and service options also exist for youth with significant behavioral health and other needs; these placements and related services can include, among other options, specially trained intensive services foster care resource families, and intensive, temporary placement in short-term residential therapeutic programs, which are replacing group homes under significant changes adopted in recent years per the state's Continuum of Care Reform (CCR). As of October 1, 2018, there were 59,487 children in California's child welfare system.

Probation-supervised foster youth and the impacts of placement changes on foster youth:

Some youth who are on probation and supervised by the delinquency (versus dependency) court – also referred to as “wards” (versus dependents) of the court – have orders for foster care placement. A point-in-time count on October 1, 2018, indicated that there were 2,542 probation-supervised foster youth in California (compared to 59,487 foster youth supervised by the dependency court).

In the six-month period between April 1, 2017, and September 30, 2017, almost 54% of probation-supervised foster youth who had been in foster care in California for at least 12 months experienced at least two placements; for foster youth supervised by the dependency court, this rate was over 61%. During that same period, almost 24% of the same probation-supervised foster youth had three or more placements, while over 27% of dependents did. While a slightly higher proportion of dependents experienced two- and three-plus placements than did probation-supervised foster youth, this may be explained in part by the much larger percentage of probation-supervised foster youth who were placed, and perhaps remained, in group homes. As of October 1, 2018, 5.4% of dependent foster youth were placed in group homes, while 42.8% of probation-supervised foster youth were. Recent and significant changes to California’s child welfare services system under CCR have come about in large part due to the recognition that placement in congregate care settings like group homes often do not serve the best interests of youth. So, while there may be slightly lower rates of placements disruptions for probation-supervised foster youth compared to foster youth supervised by the dependency court, this is likely not a positive sign. Moreover, that nearly one quarter of probation-supervised youth who had been in foster care for at least one year had at least three placements still indicates rather high levels of placement instability.

In 2008, a literature review compiled by the University of California, Davis’s Center for Human Services stated that, “Frequent placement moves not only compounds the issue of being separated from one’s parents, but can also result in separation from siblings, relocating to a new geographical area, and experiencing a sense of not belonging; all of which can lead to distress and have a profound negative emotional impact...Children who are removed from their homes and then who experience placement disruption can lead to them experiencing profound distress and a sense of loss and not belonging, all of which can lead to distrust and a fear of forming secure healthy relationships.” The abruptness with which placement changes occur can also negatively impact children and youth. Youth who are forced to move in short timeframes with little to no notice, at odd hours of the day or while in the middle of classes at school, face detrimental circumstances and impacts that most other families and children who have months to plan when they are relocating.

Need for this bill: Experiences of being involved with the delinquency court, combined with the disruptive impact of experiencing multiple foster care placements, can have negative impacts for probation-supervised foster youth. AB 2247 (Gipson), Chapter 674, Statutes of 2018, adopted last year, required the development and implementation of a placement preservation strategy prior to changing a dependent child's placement, and required at least 14 days’ written notice to be given prior to a placement change, except in instances where delayed placement or prior notice of a placement change would endanger a child's health or safety or where all parties have agreed to waive these requirements. This bill seeks to extend the provisions of AB 2247 to probation-supervised foster youth.

According to the author, “Foster youth from across California have made clear that one of the root causes of disruption in their lives is placement instability. Familial disputes should never lead to foster youth being kicked out of their home in the middle of the night, nor should youth be forced to jump from one placement to another because of a lack of communication. Foster youth deserve access to services that facilitate stronger bonds with their caregiver. Last year, Governor Brown signed AB 2247, which established guidelines for foster youth placement transitions, but excluded youth who are involved with the justice system. [This bill] simply takes the process and protections established in AB 2247 and explicitly applies them to probation supervised youth to ensure that all youth in foster care have the benefit of a consistent transition process that prioritizes their emotional and social well-being.”

Recommended amendments: In keeping with this bill’s goal of extending the benefits from last year’s AB 2247 to probation-supervised foster youth, it would be beneficial to have the Office of the State Foster Care Ombudsperson share findings from investigations into placement change violations, where applicable to probation-supervised foster youth, with county chief probation officers. Therefore, *committee staff recommends the following amendment on line 2 of page 4 of the bill:*

37 (g) If a complaint is made to the Office of the State Foster Care
 38 Ombudsperson alleging that a placement change occurred in
 39 violation of this section, and that complaint is investigated pursuant
 40 to Section 16164, the office shall provide the findings of the
 P4 1 investigation to the county child welfare director, ~~or his or her~~ *the*
 2 director’s designee, or to the chief probation officer, or the officer’s designee, for the purposes
 of training, technical
 3 assistance, and quality improvement.

PRIOR LEGISLATION:

AB 2247 (Gipson), Chapter 674, Statutes of 2018, required a social worker or placement agency to implement a placement preservation strategy prior to changing a dependent child’s placement, and required at least 14 days’ written notice to be given prior to a placement change, except in instances where delayed placement or prior notice of a placement change would endanger a child’s health or safety or where all specified parties have agreed to waive these requirements.

REGISTERED SUPPORT / OPPOSITION:

Support

Children Now
 Pacific Juvenile Defense Center

Opposition

None on file

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