

Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 1068 (Cooley) – As Amended March 19, 2019

SUBJECT: Juveniles: dependency: child and family teams

SUMMARY: Requires certain social worker and court-appointed advocate reports to the court to include information about membership, attendance, and decisions made by a Child and Family Team (CFT), CFT members to receive notice about the release of certain files or records, a CFT meeting be conducted by a neutral facilitator, and CFT meetings to include a youth's court-appointed educational rights holder and educational liaison if certain circumstances apply. Specifically, **this bill:**

- 1) Defines “child and family team meeting” as a convening of all or some members of the child and family team.
- 2) Requires a social study or evaluation made by a social worker or child advocate appointed by the court, and each supplemental report, as specified, to include information about the child and family team, including, but not limited to:
 - a) Members of the CFT;
 - b) The date that the last CFT meeting was held;
 - c) The individuals who participated in the last CFT meeting;
 - d) The recommendations of the CFT; and,
 - e) The rationale for any inconsistencies between the case plan and the CFT recommendations, if relevant, as specified.
- 3) Specifies that the provisions of the bill related to the inclusion of CFT information in social studies, evaluations, and supplemental reports do not authorize the disclosure of confidential information under state and federal law.
- 4) Specifies that information exchanged among the CFT and disclosed to the juvenile court is subject to the privileges and confidentiality requirements of state and federal law, as specified.
- 5) Deletes the requirement that each participant in the CFT with legal power to consent sign an authorization to release information to team members, and instead allows CFT participants with legal power to consent to sign an authorization to release information to team members.
- 6) Requires interested parties be given notice and an opportunity to file an objection, as specified, prior to a child welfare agency releasing its files or records, or any portion thereof, to the CFT, and, further, requires compliance with this requirement prior to the sharing of relevant information and records with members of the team.

- 7) Limits to a licensed health care practitioner on the CFT the ability, provided for in current law, to determine whether to release certain information and records, as specified.
- 8) Clarifies that the child welfare agency files or records, or portions thereof, are subject to all state and federal laws or regulations prohibiting or limiting release of the files or records, as specified.
- 9) Deletes the exception to state or federal law that prohibits or limits the release of certain privileged or confidential child welfare agency files or records, as specified.
- 10) Requires CDSS, no later than July 1, 2021, to issue written instructions to counties that describe all statutory protections for the confidentiality of information about foster youth and nonminor dependents, and, further, requires any request to sign an authorization for the release of information provided to foster youth to incorporate certain information, including statutory protections for the confidentiality of information, as specified.
- 11) Allows a CFT meeting to be requested by any team member, and, further, prohibits a decision from being made at a CFT meeting without the involvement of the child and family team members.
- 12) Requires a neutral facilitator to convene a CFT meeting, and, further, requires the facilitator to be skilled at, and trained in, facilitating CFT meetings and act as a neutral party throughout the CFT process.
- 13) Allows the facilitator to be an employee of the child welfare agency or an outside provider contracted by the agency, and, further, prohibits the social worker assigned to the child from serving as the neutral facilitator except when all members of the CFT agree to it.
- 14) Requires the CFT meeting facilitator to provide electronic or telephonic notice to all CFT members immediately following the scheduling of a meeting, and at least 72 hours before convening a team meeting, and, further, requires notice to be provided as soon as possible in the event that the meeting is scheduled with less than 72 hours.
- 15) Requires the CFT facilitator to provide electronic notice to the minor's and parent's attorney immediately following the scheduling of the meeting at least 72 hours before convening a CFT meeting, and, further, requires notice be provided as soon as possible in the event that the meeting is scheduled with less than 72 hours' notice.
- 16) Requires the occurrence of a CFT meeting be documented in certain court reports, as specified, and, further, requires the documentation to include the date the team meeting was held, the members in attendance, and the recommendations of the child and family team.
- 17) Requires the youth's court-appointed educational rights holder and the educational liaison from the youth's local education agency (LEA) be invited to the CFT meeting, if any of the following apply, as specified:
 - a) The CFT meeting will develop and implement a placement preservation strategy;
 - b) The CFT meeting will discuss a placement change; and,
 - c) The CFT meeting is the first meeting following a placement change.

- 18) Requires the CFT facilitator to ensure that information related to a youth's school of origin is shared at the CFT meeting, as specified.
- 19) Requires the CFT to discuss whether remaining in the school of origin is in the youth's best interest, and, further, requires the CFT, if the youth's educational rights holder determined that remaining in, or returning to, the child's school of origin is in the child's best interest, to determine a developmentally appropriate transportation plan for the child, as specified.
- 20) Includes the requirement that child welfare agencies document the recommendations of the CFT in the child's case plan.
- 21) Makes technical and conforming changes.

EXISTING LAW:

- 1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk or have been abused or neglected, as specified. (Welfare and Institutions Code [WIC] Section 202)
- 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) Requires the court to receive in evidence the social study of the child made by the social worker, or any study made by a child advocate appointed by the court, and further requires each social study or evaluation made by a social worker or child advocate to include a factual discussion of certain subjects, including: whether the social worker has considered certain service and placement options, what reunification plan, if any, is recommended to the court by the county welfare department or probation officer, and whether the child has siblings under the court's jurisdiction, as specified. (WIC 358.1 *et seq.*)
- 4) Requires the status of every dependent child in foster care to be reviewed periodically at least once every six months, and further requires a supplemental report filed by a social worker to include a factual discussion on certain topics, including: whether the county welfare department social worker has considered certain service and placement options, what reunification plan, if any, is recommended to the court by the county welfare department social worker, and what actions, if any, have been taken by the parent to correct the problems that caused the child to be made a dependent child of the court. (WIC 366 *et seq.*)
- 5) Requires the court to, prior to the release of the juvenile case file or any portion thereof, afford due process, including a notice of and an opportunity to file an objection to, the release of the record or report to all interested parties. (WIC 827 (a)(3)(B))
- 6) States Legislative intent that, while the Legislature reaffirms its belief that the juvenile court records, in general, should be confidential, limited exceptions to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, among others, in order to lessen the potential for drug use, violence, other forms of delinquency, and child abuse. (WIC 827 (b)(1))

- 7) Defines a “child and family team” as a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being. (WIC 16501 (a)(4))
- 8) Requires a child welfare agency to consider the recommendations of the child and family team, if any are available. (WIC 16501.1 (a)(3))
- 9) Defines “school of origin” as the school in which the pupil is enrolled at the time that a change in residence occurs. (Education Code [EDC] Section 48204.6 (a)(3))
- 10) Requires local education agencies to collaborate with local child welfare agencies to develop and implement clear written procedures to address the transportation needs of foster youth to maintain them in their school of origin, when it is in the best interest of the foster youth. (EDC 48853.5 (f)(5)(B))
- 11) Requires an educational liaison, before making a recommendation to move a foster child from their school of origin, to provide the foster child and the educational rights holder for the foster child with a written explanation stating the basis for the recommendation and how the recommendation serves the foster child’s best interests. (EDC 48853.5 (f)(8)(a))
- 12) Makes Legislative findings and declarations that the case plan is the central and unifying tool in child welfare services, and requires the child welfare agency to both consider recommendations of the CFT, and document the rationale for any inconsistencies between the case plan and the CFT recommendations. (WIC 16501.1 (a) (1) and (3))

FISCAL EFFECT: Unknown

COMMENTS:

Child welfare services: California’s Child Welfare Services (CWS) system exists to protect children from abuse and neglect, and in doing so, and 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 October 2018, there were 59,487 youth between the ages of 0 and 21 placed in California’s CWS system.

To ensure that the juvenile court is informed as to the welfare of a child, social workers and child advocates appointed by the court are required to submit to the court a factual discussion of certain subjects, including whether child protective services had been considered as a possible solution to the problems at hand and whether those services have been offered to qualified parents, and also whether the child can be returned to the custody of their parents. The reports are also required to include a discussion as to whether the child has siblings already under the jurisdiction of the court, whether placement with a relative is appropriate, and whether, in the case of an Indian child, whether tribal customary adoption is an appropriate placement for the youth, among other components. These reports are required to be submitted to the court at the

disposition hearing and at the six month review hearings conducted twice a year. The provisions of this bill would require these reports to also include certain information about CFTs, including membership, recommendations, and a rationale upon which decisions conflicting with CFT recommendations were made.

Continuum of Care Reform: Over the past four years, California has enacted legislation, known as the Continuum of Care Reform (CCR), to improve placement and treatment options for youth in foster care. AB 403 (Stone), Chapter 773, Statutes of 2015, sponsored by the California Department of Social Services (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. Subsequent legislation to further facilitate implementation of CCR efforts include AB 1997 (Stone), Chapter 612, Statutes of 2016, AB 404 (Stone), Chapter 732, Statutes of 2017, and AB 1930 (Stone), Chapter 910, Statutes of 2018.

Child and Family Teams (CFTs): Part of the reform efforts of CCR include a more youth-focused approach to providing supports and services to children in foster care. And while the importance of youth voice and input has been a focus for some time, it wasn't until CCR that this process was formally adopted on a statewide basis by means of CFTs. Defined as "a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being," CFTs are responsible for ensuring that individuals who are invested in the youth's well-being have the opportunity to contribute to certain decisions. CFTs have the ability to provide input on a variety of topics, including the development of a child and family plan, and the placement decision made by the placing agency. For youth in the child welfare or probation system, CFTs must occur at least once every six months, though meetings can occur on an as-needed basis, depending on the needs of the individual youth. For youth who receive specialty mental health services, intensive care coordination, intensive home-based services, or therapeutic foster care, CFTs are required to meet at least once every 90 days, or on an as-needed basis.

On October 7, 2016, CDSS and the Department of Health Care Services (DHCS) issued All County Letter (ACL) 16-84, which describes the facilitation of CFT meetings. Typically the placing agency facilitates the CFT meeting, though alternative individuals, such as another individual from the placing agency, a provider, an informal support, or any other team member, may facilitate a CFT meeting. The facilitator's role is to help identify needed contacts, build consensus within the team around collaborative plans, and ensure that the family voice and choice is heard throughout the process. On June 1, 2018, CDSS released ACL 18-23 which states that "CDSS strongly recommends that counties have a neutral third party to provide skilled CFT facilitation." The provisions of this bill would require CFTs to be conducted by a neutral facilitator that is not the social worker assigned to the child, unless all members of the CFT agree to it.

Need for this bill: According to the author, "The child welfare system has long struggled with the best way to include all the different aspects of a child's needs when making a decision.

Especially difficult has been ensuring that the foster youth has a real voice in any decision making process. When CCR was enacted in 2015 it sought to address this issue through the systemized use of CFTs. These CFTs bring together the caregiver, the child, the child welfare agency, and anyone else needed for support or help in making decisions regarding the child's placement and services. In this collaborative process, the group can discuss challenges or necessary changes that need to be met and outline a plan and process for doing so. While the CFT process continues to be implemented across the state, some issues have arisen that if addressed, will help strengthen this core facet of CCR. [This bill] creates notice and confidentiality requirements for the CFT meetings, requires the use of a neutral facilitator, and ensures that the educational rights holder is included in the decision making process for placement decisions. These changes will create a stronger and more effective CFT process and help fulfill the promise of CCR."

Staff comments: The provisions of this bill seek to clarify that, when making a determination of whether the release of certain information may be detrimental to a youth's physical or psychological safety, the authority to make that determination lies with a licensed health care practitioner on the CFT in light of their clinical expertise. However, the primary purpose of a CFT is to ensure that decisions related to services and supports for youth are made collaboratively as a team. Limiting the ability to determine whether certain information is shared to only licensed health care practitioners may hinder the ability of a CFT to make recommendations based on fully-informed discussions. However, it is important to ensure that a youth's psychological and physical safety, as well as their right to privacy, is maintained and that any information that is released is done so in consideration of those factors. ***Should this bill move forward, the author may wish to consider how best to balance the team-oriented nature of CFTs with the ability of a licensed health care practitioner to make a determination as to whether sharing certain information may affect youth's psychological and physical safety and right to privacy.***

Recommended committee amendments: Current law requires a CFT member to sign an authorization to release information to other CFT members, and this bill changes this from requisite to permissive. However, in order to accomplish the goal of ensuring that a participant *must* sign an authorization when and *if* they agree to release information, ***committee staff recommends the following amendments, beginning on line 12 on page 9 of the bill:***

- 12 (b) (1) *If they agree to release information,* ~~Each~~ participant in
 13 the child and family team with legal
 14 power to consent ~~shall~~ *may shall* sign an authorization to release
 15 information to team members. In the event that a child or youth
 16 who is a dependent or ward of the juvenile court does not have the
 17 legal power to consent to the release of information, the child's
 18 attorney or other authorized individual may consent on behalf of
 the child.

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

PRIOR LEGISLATION:

AB 1930 (Stone), Chapter 910, Statutes of 2018, furthered Continuum of Care Reform efforts made by AB 403, AB 1997, and AB 404.

AB 404 (Stone), Chapter 732, Statutes of 2017, furthered CCR efforts made by AB 403 and AB 1997.

AB 1997 (Stone), Chapter 612, Statutes of 2016, furthered CCR efforts made by AB 403.

AB 403 (Stone), Chapter 773, Statutes of 2015, implemented CCR recommendations to better serve children and youth in California's child welfare services system.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for Children's Rights (Sponsor)
Children's Law Center of California (Sponsor)
Alliance of Relative Caregivers
California Alliance of Caregivers
California Alliance of Child and Family Services
Children Now
Children's Legal Services of San Diego
East Bay Children's Law Offices
Foster Parent Alliance of Marin
John Burton Advocates for Youth
Lincoln
Public Counsel
Sacramento CASA
Solano County Resource Family Association

Opposition

None on file

Analysis Prepared by: Kelsy Castillo / HUM. S. / (916) 319-2089