

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 1324 (Bryan) – As Amended March 13, 2023

SUBJECT: Child welfare agencies: enforcement

SUMMARY: Requires the Department of Child Support Services (DCSS) to identify all child support referrals made prior to January 1, 2023, for child welfare-involved youth, and to direct local child support agencies to rescind the referrals and cease enforcement of these child support orders. Further requires DCSS to direct local child support agencies to seek modification of these orders when necessary to eliminate ongoing obligations, including the cancellation of all arrears owed to the state and any accrued interest. Specifically, **this bill:**

- 1) Requires, on or before January 1, 2025, DCSS to identify all child support referrals made prior to January 1, 2023, for a child in any of the following circumstances:
 - a) The child receives foster care assistance payments;
 - b) The child receives assistance payments as a voluntary placement;
 - c) The child receives benefits as a minor child placed in the same home as a minor or nonminor dependent (NMD) parent;
 - d) The child is under the jurisdiction of the juvenile court and a caretaker relative receives any of the following payments:
 - i) California Work Opportunity and Responsibility to Kids (CalWORKs) payments as a result of the death, physical or mental incapacity, or incarceration of a parent; the unemployment of a parent; or continued absence of a parent due to divorce, separation, desertion or any other reason, as specified;
 - ii) Kinship Guardian Assistance Payment Program (Kin-GAP) payments; or,
 - iii) The child receives child welfare aid.
- 2) The child's welfare arrears is the subject of a referral to the local child services agency (LCSA) for child support services.
- 3) Requires DCSS to direct local child support agencies to rescind the referrals identified pursuant to 1) and cease enforcement of these child support orders. Further requires DCSS to direct local child support agencies to seek modification of these orders when necessary to eliminate ongoing obligations, including the cancellation of all arrears owed to the state and any accrued interest.
- 4) Requires DCSS, on or before June 1, 2024, to implement, interpret, or make specific these provisions, in whole or in part, by means of departmental letters or similar written instructions, without taking any further regulatory action. These departmental letters or similar written instructions shall have the same force and effect as regulations.

- 5) Specifies that to the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase.

EXISTING LAW:

- 1) Establishes DCSS as the statewide agency responsible for administering and managing California's child support enforcement program. (Family Code Section [FAM] 17202)
- 2) Defines "support order" as a child, family, or spousal support order for purposes of modification, termination, or set aside of support orders. (FAM 3650)
- 3) Requires each county to maintain a LCSA, responsible for promptly and effectively establishing, modifying, and enforcing child support obligations. (FAM 17400)
- 4) Requires the California Department of Social Services (CDSS), in consultation with DCSS, to establish regulations by which the county welfare department can determine if it is contrary to the best interests of a child to refer their child welfare case to the local child services agency LCSA for child support services. Further requires all of the following factors to be considered:
 - a) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.
 - b) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the child's financial needs. (FAM 17552(a))
- 5) Requires regulations to provide that where the county child welfare department determines it is not in the child's best interest to seek a support order against the parent, the county child welfare department should refrain from referring the case to the LCSA. (FAM 17552(b))
- 6) Requires regulations to provide that where the county welfare department determines that it is not in the child's best interest to have the case referred to the local child support agency, the county welfare department should review that determination periodically to coincide with the redetermination of specified public benefits programs. Further, requires the department to refer the child's case to the LCSA upon the determination that due to a change in circumstance, it is no longer contrary to the child's best interest to have the case referred to the LCSA. (FAM 17552(c))
- 7) Establishes a statewide uniform guideline to ensure the state complies with federal child support regulations. (FAM 4050 *et seq.*)
- 8) Allows for the modification or termination of a support order at any time as the court determines to be necessary. (FAM 3651(a))

- 9) Requires DCSS to establish and operate a statewide compromise of arrears program to take into consideration the needs of the children subject to the child support order and the obligor's ability to pay. (FAM 17560)
- 10) 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 of abuse and neglect or who have been abused or neglected, as specified. (Welfare and Institutions Code Section [WIC] 202)
- 11) Provides that the purpose of the juvenile court dependency system is maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that the focus of the juvenile court dependency system is the preservation of the family and the safety, protection, and physical and emotional well-being of the child. (WIC 300.2)
- 12) Defines "nonminor dependent" as a foster child who is a dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court, and satisfies all criteria, as specified. (WIC 11400(v))
- 13) States legislative intent to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with their biological family whenever possible, or to provide a permanent placement alternative. (WIC 16000)
- 14) 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. Further, provides that children and families in the child welfare 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 specified. (WIC 361.5(a))
- 15) Provides that reunification services need not be provided if the court finds, by clear and convincing evidence, that one of 17 specified conditions exist, generally, situations where reunification would be dangerous for the child. (WIC 361.5(b))
- 16) Requires a county department, in cases in which the paternity of a child has not been established to the satisfaction of that department, to refer the applicant to a local child support agency at the time the application is signed, as specified. (WIC 11479)
- 17) Requires money from noncustodial parents paid for child or spousal support with respect to whom an assignment has been made according to CalWORKs rules to be paid directly to the LCSA and not directly to the family, as specified. (WIC 11457)
- 18) Provides, under Title IV-E of the federal Social Security Act, that, where appropriate, all steps be taken to secure an assignment to the state of any child support rights to support on behalf of each child receiving foster care maintenance payments, as specified. (42 United States Code 617 (a)(17))
- 19) Requires, as a condition of eligibility for CalWORKs aid, each applicant or recipient to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with

respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception, as specified. (WIC 11477(b)(1))

- 20) Establishes that a child may not be denied Aid to Families with Dependent Children either initially or subsequently because a parent or other caretaker relative fails to cooperate with the child support agency. (45 Code of Federal Regulations 233.90(b)(4)(i)).

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

COMMENTS:

Background: *Child support.* Noncustodial parents are often responsible for paying child support payments to custodial parents and their children. A child support order provides the amount of child support that a noncustodial parent must pay. In California, these orders can be established privately, using an attorney, during divorce proceedings, or using the state child support system to help establish an order. The state child support program, administered by DCSS and run locally through 49 LCSAs, establishes child support orders and collects payments from noncustodial parents to distribute to custodial parents and their children. Data show that often child support obligations fall disproportionately on low-income families.

Federal law requires the child support program to establish and enforce orders “where appropriate” for parents who have a child in foster care, and is designed to offset the cost of foster care maintenance payments that are provided to the foster parents.

Currently, over half of parents with children in foster care who have a child support order have an annual income of less than \$10,000. In 2018, among the foster care cases that had orders of child support, the median monthly child support order was \$250. According to the Orange County Department of Child Support Services, these orders are costly and for every dollar it expends, only \$.27 is collected, and no money goes directly to support the child.

In July of 2022, the federal Children’s Bureau released guidance to more narrowly define when it would be appropriate to issue child support orders so that the default position in these determinations will be to not seek child support for children receiving foster care maintenance payments. This change was in recognition that reducing the income of the child’s parent could impede their ability to engage in reunification efforts, potentially extending the time the child spends in foster care. Given this, previous policy directing agencies to determine “where appropriate” on a case-by-case basis was withdrawn.

Child Welfare Services. California’s Child Welfare Services (CWS) 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, often as a result of a report by a mandated reporter like a healthcare provider 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 the youth are met.

CDSS 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. Foster parents receive a monthly payment to meet the needs of the youth placed in their care and is intended to cover food, clothing, transportation, and vary based on the child, their age, and any special needs they may have.

As of January 1, 2023, there are 52,265 youth between birth and up to 21 years old in foster care.

Author’s statement: According to the Author, “Despite state and federal guidance encouraging counties to end the practice of billing parents for their child’s time in foster care, thousands of families in California are still in crippling debt owed to the state because they were billed this before guidance went into effect. Parents carrying the weight of these debts - and the 10% interest these debts accrue - are kept in poverty, increasing the risk of foster care re-entry. Moreover, not only is the vast majority of this debt already deemed uncollectable by county agencies, but the practice of collecting on these “foster care arrears” is cost-ineffective. [This bill] will forgive foster care debt for parents whose children were previously in out-of-home care. Eliminating arrears for these families aligns child welfare and child support policies with federal guidance and ensures greater family financial stability for our state’s most vulnerable families.”

Need for this bill: This bill continues the momentum that began with the implementation of AB 1686 (Bryan), Chapter 755, Statutes of 2022, which required county welfare departments, in determining whether to refer a case for child support services, to presume that the payment of support by the parent is likely to pose a barrier to the proposed reunification.

This bill would now require LCSAs to rescind the referrals and cease enforcement of child support orders for child welfare-involved youth and to seek modification of these orders when necessary to eliminate ongoing obligations, including the cancellation of all arrears owed to the state and any accrued interest.

Federal guidance acknowledges what has been understood for years: that seeking child support for the parents of foster youth is not cost effective and only exacerbates family reunification efforts.

Equity Impact: Data from Orange County Department of Child Support Services shows that 57% of the parents who have children in foster care and also have child support cases are non-White. The families who have children in foster care tend to be deeper in poverty and the parent who is required to pay child support is more often to be the mother. By stopping the practice of referring parents of foster youth for child support cases, these families, who are already grappling with the effects of poverty and structural racism in the child welfare system, can be provided the opportunity to address the root causes of what led to their child being placed into care without having to climb out of debt first.

Double referral: This bill passed out of the Assembly Judiciary Committee on March 21, 2023, with an 8-2 vote.

RELATED AND PRIOR LEGISLATION:

AB 1686 (Bryan), Chapter 755, Statutes of 2022, required county welfare departments, in making a determination to refer a case to the LCSA for child support services, to presume that the payment of support by the parent is likely to pose a barrier to the proposed reunification.

AB 79 (Committee on Budget), Chapter 11, Statutes of 2020, among other provisions, increased the amount of monthly child support passed through to CalWORKs recipients from \$50 per family to \$100 for a family with one child or \$200 for a family with two or more children.

SB 380 (Bradford), Chapter 729, Statutes of 2017, allowed, in certain instances, a CalWORKs assistance unit to receive the full child support payments for a step-sibling or half-sibling in that unit, and prohibited those child support payments from impacting CalWORKs eligibility or benefit level determination.

AB 1654 (Bonilla) of 2014, would have increased the amount of monthly child support passed through to CalWORKs recipients from \$50 per family to \$100 for a family with one child or \$200 for a family with two or more children. *AB 1654 was held on the Senate Appropriations suspense file.*

AB 1449 (Keeley), Chapter 463, Statutes of 2001, required CDSS, in consultation with DCSS, to promulgate regulations by which the county welfare department, in any case of separation or desertion of a parent or parents from a child that results in CalWORKs aid, shall determine whether it is in the best interests of the child to have the case referred to the local child support agency for child support services. Specified that if reunification services are not offered or are terminated, the case may be referred to the local child support agency and specified the factors that the county child welfare department shall consider.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for Children's Rights (Co-Sponsor)

A Home Within

Advokids

Aouon Orange County

California Alliance of Caregivers

California Alliance of Child and Family Services

California Family Resource Association

Center for Public Interest Law/Children's Advocacy Institute/University of San Diego

Child Abuse Prevention Center

Children Now

Communities United for Restorative Youth Justice (CURYJ)

Community Legal Services in East Palo Alto

Dependency Advocacy Center

Dependency Legal Services

Ella Baker Center for Human Rights

Executive Director

John Burton Advocates for Youth

Justice2Jobs Coalition

Juvenile Law Center

Legal Services for Prisoners With Children

Los Angeles Dependency Lawyers, INC.

Movement for Family Power

National Center for Youth Law

Public Counsel
Root & Rebound
Sister Warriors Freedom Coalition
Starting Over, INC.
Sycamores
The California Children's Trust
The Law Offices of Dale Wilson
Truth and Justice in Child Support Coalition
Young Women's Freedom Center

Opposition

None on file

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