

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 1506 (Quirk-Silva) – As Amended March 16, 2023

SUBJECT: Foster youth

SUMMARY: Adds to the foster youth bill of rights, the right for a foster youth, when a move or change in placement requires a change in school, to be provided with the opportunity to return to their school to collect their belongings and get closure.

EXISTING LAW:

- 1) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being neglected, exploited, and/or physically, sexually, and emotionally abused and to ensure the safety of children who are at risk of that harm. Specifies that safety, protection, and physical and emotional well-being may include the provision of social and health services to help the child and family and a balanced focus on the health and well-being of the child along with the preservation of the family. (Welfare and Institutions Code Section [WIC] 300.2)
- 2) Declares legislative intent to, whenever possible preserve and strengthen a child's family ties and ensure that if the child is removed from their family, the state shall work to secure as nearly as possible for the child the custody, care, and discipline equivalent to that which should have been given to the child by their parents. Further, states legislative intent to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive setting and as close to the child's family as possible, as specified. (WIC 16000)
- 3) Enumerates 41 separate 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, corporal punishment, or exploitation; receive adequate and healthy food, clothing, and, age-appropriate allowance; be placed in the least restrictive setting possible; have a placement that utilizes trauma-informed and evidence-based deescalation and intervention techniques; receive medical, dental, vision, mental health, substance use disorder services, and reproductive and sexual health care; have a caregiver, child welfare and probation personnel, and legal counsel who have received instruction on cultural competency and sensitivity relating to sexual orientation, and gender identity and expression; attend religious services and activities of their choice; be involved in the development of their own case plan and plan for permanent placement; review their own case plan and plan for permanent placement, if they are 10 years of age or older, and receive information about their out-of-home placement and case plan, including being told of changes to the plan; and, be provided with contact information for the Ombudsperson, at the time of each placement, and be free from threats or punishment for making complaints. (WIC 16001.9)
- 4) Establishes the Office of the Foster Care Ombudsperson as an autonomous entity within the California Department of Social Services (CDSS) for the purpose of providing children who are placed in foster care with a means to resolve issues related to their care, placement, or services. (WIC 16161)

- 5) Requires the Office of the Foster Care Ombudsperson to among other things, disseminate information and provide training and technical assistance to foster youth and relevant parties on the rights of children and youth in foster care, reasonable and prudent parent standards, and the services provided by the Office; investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services; and, have access to copies of any record of a state or local agency, and contractors with state and local agencies, that is necessary to carry out their responsibilities, and may meet or communicate with any foster child in their placement or elsewhere. (WIC 16164)
- 6) Requires the local educational agency serving the foster child, at the initial detention or placement, or any subsequent change in placement, to continue to allow their education in the school of origin for the duration of the jurisdiction of the court. (Education Code Section [EDC] 48853.5.(f))
- 7) Defines “school of origin” to mean the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. Requires, if the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, to determine, in the best interests of the foster child, the school that shall be deemed the school of origin. (EDC 48853.5(g))
- 8) Establishes the case plan as the foundation and central unifying tool in the child welfare system and seeks to ensure that the child receive protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent’s home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care. (WIC 16501.1 *et seq.*)

FISCAL EFFECT: This bill was keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Background: *Child Welfare Services (CWS).* The purpose of California’s CWS system is to protect children from abuse and neglect and provide for their health and safety. When children are identified as being at risk of abuse, neglect or abandonment, county juvenile courts hold legal jurisdiction; these children are served by the CWS system through the appointment of a social worker. Through this system, there are multiple opportunities for the custody of the child, or their placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child’s social worker, to help provide the best possible services to the child. The CWS system seeks to help children who have been removed from their homes reunify with their parents or guardians, whenever appropriate. However, the court may determine that an alternate permanent placement is more fitting and give preference to relatives or nonrelative extended family members. As of January 1, 2023, there are 52,265 youth between birth and up to 21 years old in foster care.

Foster youth placements. Many foster youth experience frequent placement changes while in foster care which can exacerbate their trauma that resulted from being removed from their

parents and home. Data from the California Child Welfare Indicators Project show that for youth who are in care for 24 months or longer, 15% experienced five or more placements, and 44% experienced three or more placements. Stable placements are vital to the well-being of children and youth in foster care and many families are not adequately prepared to care for youth who have experienced abuse or neglect, which can lead to a poor placement match, necessitating frequent placement changes. Counties have procedures in place for transitioning foster youth from their current placement to any new placements and the youth are notified in advance. Social workers will discuss the new placement with the youth, relevant to their age and developmental level.

School of origin. Current law allows foster youth to attend the school they attended prior to being removed from their home or the school in which they were last enrolled. This is referred to as the school of origin. They are also granted the right, if the school they attended prior to removal is different from the school in which they were last enrolled, or if there is some other school they attended they are connected to, and they attended within the preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, to determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

California Foster Youth Education Task Force (Task Force). The Task Force was created in 2004 to address critical issues related to foster youth education and seeks to improve educational outcomes for foster youth in California. The Task Force comprises subject matter experts representing more than 100 organizations and agencies, and grassroots stakeholders to improve the disparate educational outcomes for students in foster care. The California Department of Education (CDE), in consultation with the Task Force, developed a standardized notice of the educational rights of foster children, which includes the right to remain in their school of origin after moving to a new foster care placement. The notice is available to educational liaisons for foster children for dissemination on the Task Force's website.

Foster Youth Bill of Rights. AB 899 (Liu), Chapter 683, Statutes of 2001, adopted California's Foster Youth Bill of Rights and required: social workers and probation officers to periodically inform children of these rights in an age-appropriate manner; the Office of the State Foster Care Ombudsperson to, in consultation with stakeholders, develop and disseminate information on these rights; and any facility licensed to provide foster care for six or more children to post a listing of these rights.

The Foster Youth Bill of Rights has been amended to add and clarify rights over time, most recently with AB 1735 (Bryan), Chapter 405, Statutes of 2022, clarified, in the Foster Youth Bill of Rights, that youth have the right to be provided a copy of the Foster Youth Bill of Rights in their primary language. The current list of rights for all minors and nonminors in foster care includes 41 enumerated rights, such as the right to receive adequate food, clothing, including the right to receive grooming and hygiene products regardless of sexual orientation and gender identity and expression; the right to an allowance to all youth regardless of placement type; and specifying that the allowance be age-appropriate.

Foster Care Ombudsperson. The Office of the Foster Care Ombudsperson was created to provide foster youth with an independent forum for review and resolution of concerns related to the care, placement, or services provided to children and youth in foster care. The Office of the Foster Care Ombudsperson is responsible for investigating and resolving complaints made by

foster youth regarding their care and compiling data regarding contacts, investigations, and unresolved complaints. The Office of the Foster Care Ombudsperson is also responsible for disseminating information relating to the Foster Youth Bill of Rights and ensuring that children and youth in foster care know their rights. Additionally, the Office of the Foster Care Ombudsperson is responsible for reviewing amendments to laws applicable to foster youth at the end of every two-year legislative session and determining whether updates to the Foster Youth Bill of Rights should be recommended as a result of legislation passed during the previous legislative session.

Author's Statement: “As a teacher for over three decades, I understand the importance of student's academic as well as social and emotional development. One of the hardest things for any student, was either entering a new school, or leaving a school and their friends; especially in the middle of a school year. Foster youth are more likely to move schools within the academic year than other students, and a number of them moved multiple times. Foster youth have a number of rights in current law. Adding the right for a foster youth to be able to ‘move with dignity’, provides an opportunity for a foster youth to gather their belongings, and the ability to say goodbye to classmates, friends, teachers and staff. We should do all we can to provide students the opportunity to have the closure that is important to their overall academic and social development.”

Need for this bill: The provisions of this bill seek to limit the negative impact on foster youth when a move or change in placement requires them to change schools, by clarifying they have the opportunity to return to their school to collect their belongings. By adding this to the Foster Youth Bill of Rights, foster youth can advocate for themselves and attempt to limit additional trauma when a change of placement is necessitated, by being able to return to their school and gather their things in a dignified way. While foster youth are allowed to stay in their school of origin after a change of placement, there are times when the geographical distance or other logistical and emotional factors necessitate a change in schools. Because these changes can often be abrupt, this bill seeks to limit the negative consequences of having to leave a school mid-year.

Equity Implications: Foster youth represent one of the most vulnerable and academically at-risk student groups, according to CDE and suffer poorer educational outcomes with higher rates of suspension and lower rates of graduation. According to the Legislative Analyst's Office (LAO), in California, the populations reflected in foster care are predominantly youth of color as 21% are Black and 50% are Latino. Further highlighting the disproportionality comprising the foster youth population, the number of Black and Native American youth in foster care are four times larger than the number of the general population of Black and Native American youth in California. The LAO also states that racial disproportionalities and disparities are present within initial allegations and persist at all levels of the system—becoming the most pronounced for youth in care. Additionally, LGBTQ youth are also overrepresented in foster care, according to the UCLA Williams Institute, with 13.6 % of foster youth identifying as lesbian, gay, bisexual, or questioning, and 5.6% identifying as transgender, compared to 10.3% of California's students in public middle and high schools identifying as LGBTQ. Allowing these youth who have faced so much trauma to be guaranteed the right to go back to their school to collect their belongings, will help to make a difficult situation less traumatic.

Policy Considerations: As described above, all foster youth have the explicit right to remain in their school and shall not be moved schools. Moving schools during an already traumatic life event has adverse and lasting impacts on the child's life. It is unclear the instances this bill would

be necessary given current law. However, in the event it is necessary to move schools it is vital to a foster youth's well-being to be provided an opportunity to go back to school and gather their belongings when a change in placement has occurred. The Committee concurs it important to ensure the child is treated with dignity in the way they are allowed to collect items, but it is difficult to measure how these vulnerable youth would achieve "closure".

Should this measure move forward, the author may wish to further understand why and when foster children's rights are being violated and forcing school changes in order to ensure school changes are not occurring.

Additionally, as an alternative to "closure", the Committee suggests that these youth be provided the opportunity to return to school with an adult of their choosing to accompany the child in a trauma-informed manner to collect their belongings.

Proposed Committee Amendments:

The Committee is proposing the author take the following amendments:

On page 6, on line 13, insert *, to be provided with the opportunity to return to the child's school with an adult of their choosing to accompany the child in a trauma-informed manner to collect their belongings when a move or change in placement requires the child to change schools,*

On page 8, strike out lines 30-32, inclusive.

RELATED AND PRIOR LEGISLATION:

AB 1735 (Bryan), Chapter 405, Statutes of 2022, clarified, in the Foster Youth Bill of Rights, that youth have the right to be provided a copy of the Foster Youth Bill of Rights in their primary language. Added to the Foster Youth Bill of Rights, the right of foster youth to receive a copy of the court report, case plan, and transition to independent living plan in their primary language.

AB 317 (Patterson), Chapter 293, Statutes of 2021, clarified the role of the Foster Care Ombudsperson and allowed the Ombudsperson to notify the dependency counsel of a complaint; limiting investigations to those reasonably related to the complaint and to foster care; and, adding other lawful court orders to ways the Ombudsperson may access sealed records for the purpose of an investigation.

AB 1988 (Patterson) of 2020, would have required the Governor to appoint the Foster Care Ombudsperson, subject to confirmation by the Senate. *AB 1988 was set to be heard in the Assembly Human Services Committee but the hearing was postponed by the committee.*

AB 175 (Gipson), Chapter 417, Statutes of 2019, among other things, made changes to the Office of the Foster Care Ombudsperson's responsibilities including collection and sharing of data related to the complaints by or on behalf of children placed in foster care, including a requirement that CDE share education rights complaints with the Office of the Foster Care Ombudsperson; requiring the materials used to inform foster children and youth of their rights be disseminated by the Office of the Foster Care Ombudsperson; and, requiring the Office of the Foster Care Ombudsperson to review amendments to laws applicable to foster youth at the end of every two-year legislative session and determine whether updates to the Foster Youth Bill of

Rights should be recommended as a result of legislation passed during the previous legislative session.

AB 2119 (Gloria), Chapter 385, Statutes of 2018, clarified that a foster youth's right to be involved in the development of their own case plan and plan for permanent placement includes, but is not limited to, the development of case plan elements related to placement and gender affirming health care, with consideration of gender identity.

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.

AB 1067 (Gipson), Chapter 851, Statutes of 2016, included 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.

AB 899 (Liu), Chapter 683, Statutes of 2001, adopted California's Foster Youth Bill of Rights and required: social workers and probation officers to periodically inform children of these rights in an age-appropriate manner; the Office of the State Foster Care Ombudsperson to, in consultation with stakeholders, develop and disseminate information on these rights; and any facility licensed to provide foster care for six or more children to post a listing of these rights.

REGISTERED SUPPORT / OPPOSITION:

Support

Child Abuse Prevention Center
Pacific Juvenile Defender Center

Opposition

None on file

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