

Date of Hearing: March 22, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 2180 (Wicks) – As Amended March 16, 2022

SUBJECT: The Children of Incarcerated Parents and Caregivers Task Force

SUMMARY: Establishes, until January 1, 2025, the “Task Force on the Children of Incarcerated Parents and Caregivers” (COIP Task Force) to be convened as a committee of the California Child Welfare Council. Requires the COIP Task Force to submit a report that includes specific policy and fiscal recommendations to the Legislature that consider the needs and service priorities for children of incarcerated parents and caregivers. Specifically, **this bill:**

- 1) Makes findings and declarations related to the number of children who have experienced parental incarceration and the unique difficulties these youth face.
- 2) Establishes the COIP Task Force, to be convened as a committee of the California Child Welfare Council.
- 3) Defines “incarcerated parents and caregivers” to include all individuals who, prior to or following incarceration, are primarily or secondarily responsible for the health and well-being of a child, transitional-age youth, or dependent adult who is less than 25 years of age.
- 4) Requires members of the COIP Task Force to be selected by the California Child Welfare Council, and to include the following:
 - a) Members of the California Child Welfare Council;
 - b) Individuals who currently have or have had a parent or caregiver incarcerated during their childhood;
 - c) Tribal representatives;
 - d) Representatives from the office of Superintendent of Public Instruction;
 - e) Stakeholders that focus on children of incarcerated parents or caregivers, family and child well-being, representatives from the California Health and Human Services Agency (CalHHS) and departments within the agency;
 - f) Justice agencies;
 - g) State and local community organizations that work with and advocate for children and families, formerly justice involved individuals, and,
 - h) Researchers with subject-matter expertise in criminal justice and familial incarceration.
- 5) Requires the California Child Welfare Council, to the extent funding is available, to assist the COIP Task Force in carrying out its duties.

- 6) Permits CalHHS to use its existing resources to pay for the costs associated with the COIP Task Force and allows the Child Welfare Council to accept and, subject to appropriation, expend nongovernmental sources of funding to pay for the costs associated with the COIP Task Force.
- 7) Requires the COIP Task Force to submit a report to the California Child Welfare Council, the office of the Governor, the Chief Justice of California, the Attorney General, and the Legislature by no later than December 1, 2023, and to include all of the following:
 - a) An examination of the unique needs of children of incarcerated parents and caregivers, which include, but are not limited to, the child's need for all of the following:
 - i) To be kept informed and protected from additional trauma at the time of parental arrest;
 - ii) To be heard and respected by decisionmakers when decisions are made about the child;
 - iii) To be considered when decisions are made about the child's parent;
 - iv) To be cared for in the absence of the child's parent in a way that prioritizes the child's physical, mental, and emotional needs;
 - v) To speak with, see, and touch the incarcerated parent or caregiver;
 - vi) To be provided coordinated support through local services and programs geared toward the needs of children with an incarcerated parent or caregiver;
 - vii) To not be judged, labeled, or blamed for the parent's incarceration; and,
 - viii) To have a lifelong relationship with the incarcerated parent or caregiver.
 - b) Specific policy and fiscal recommendations to the Legislature, including potential amendments to state law, that consider the needs and service priorities for children of incarcerated parents and caregivers;
 - c) Near-term and long-term benchmarks that can be used to track the state's progress toward meeting the needs of, and providing services for, children of incarcerated parents and caregivers.
- 8) Sunsets these provisions on January 1, 2025.

EXISTING LAW:

- 1) Establishes the California Child Welfare Council to serve as an advisory body responsible for improving the collaboration and processes of the multiple agencies and the courts that service children and youth in the child welfare and foster care systems. (Welfare and Institutions Code Section [WIC] 16540)

- 2) Mandates the California Research Bureau in the California State Library to design a survey and conduct a study of the children of women incarcerated in state prisons. (Penal Code Section [PC] 7440.)
- 3) States that the purpose of the survey is to determine how many women in state prison have children and to gather information regarding the children's names, age, performance in school, and other pertinent information, as specified. (PC 7441.)
- 4) Requires the juvenile court to order reasonable services if the parent or guardian of a child is incarcerated, unless it is determined that such services would be detrimental to the child, and specifies that these services may include, but are not limited to: maintaining contact between the parent and the child through collect telephone calls; transportation services, when appropriate; and visitation services, when appropriate. (WIC 361.5 (e)(1))
- 5) Requires a child's case plan to include information, to the extent possible, about a parent's incarceration when it has been determined that reasonable services will be offered to the parent, as specified. (WIC 16501.1)
- 6) Requires social workers to make reasonable efforts to collect and update necessary data regarding the incarcerated parent(s) of a child in the child welfare services system and encourages the Department of Justice, the Department of Corrections and Rehabilitation, county welfare departments, and county sheriffs to develop protocols for facilitating the exchange of information regarding the location and sentencing of the incarcerated parent(s) of a minor child who is in dependency care, as specified. (WIC 16501.8)

FISCAL EFFECT: Unknown

COMMENTS:

California's prison population: According to the Public Policy Institute of California (PPIC), California's prison population has stabilized. Since 2017, California's institutional prison population has hovered at about 115,000 inmates, which is just below the Supreme Court mandated target of 137.5% of design capacity—the number of prisoners the system was built to house. According to PPIC, by June 2019, all of the prisoners formerly housed out of state—more than 10,000 in 2011—had been returned to facilities in California.

PPIC reports that in 2017, the year of most recent data, 28.5% of the state's male prisoners were Black, compared to just 5.6% of the state's adult male residents. The imprisonment rate for Black men is 4,236 per 100,000 people—ten times the imprisonment rate for white men, which is 422 per 100,000. For Latino men, the imprisonment rate is 1,016 per 100,000; and for men of other races, it is 314 per 100,000. Black women are also overrepresented in California's prison system. Of the state's 5,849 female prisoners, 25.9% are Black while only 5.7% of the state's adult female residents are. Black women are imprisoned at a rate of 171 per 100,000 which is more than five times the imprisonment rate of White women, which is 30 per 100,000. Imprisonment rates for Latino women and women of other races are 38 and 14 per 100,000, respectively.

Children living in poverty are more than three times as likely to have experienced the incarceration of a parent as children in families with incomes at least twice the poverty level (12.5 versus 3.9 percent).

Children of incarcerated parents: A 2010 report from The Pew Charitable Trusts found that 2.7 million children in the U.S. had a parent who was incarcerated. This meant that one in every 28 children had an incarcerated parent, a significant increase from one in every 125 children 25 years prior. Two-thirds of parents were incarcerated for non-violent offenses. Black children, children living in poverty, children whose parents have little education, and rural children are all overrepresented among children with incarcerated parents. In 2000, the California Research Bureau estimated that 856,000 children (almost 9% of the state's children at the time) had a parent who was involved in California's adult criminal justice system. (The report noted that this figure was an estimate because "California does not request or keep family information about arrested or convicted persons.")

The incarceration of a parent can result in a number of negative outcomes for children. In the short term, many children experience trauma as the result of witnessing the arrest of a parent and subsequent loss of an attachment figure. How (and if) children are told about their parent's incarceration can also impact them; not sharing this information in an appropriate manner (including deceiving a child) can undermine a child's ability to cope and create anxiety and fear. The incarceration of a parent can also result in diminished income for the household and experiences of poverty; parental incarceration has been associated with greater risk of a child experiencing material hardship and family instability. Children with an incarcerated parent have been found to be more likely to experience adverse childhood experiences (ACEs), in addition to the adverse event of that incarceration itself. These can manifest as school problems and emotional difficulties. Some studies have shown that having an incarcerated parent as a child can contribute to poorer health outcomes as an adult. A 2015 article in *The Atlantic*, entitled "Why Children With Parents in Prison Are Especially Burdened," looked at recent data and reports on children with incarcerated parents and observed that, "the major takeaway is that direct interventions are needed to help keep incarcerated parents connected in positive ways with their children, and to have programs that help families, schools, and neighborhoods to cope. Without such programs – including community- and educator-awareness training designed to reduce shame and stigma surrounding incarcerated parents – a toxic cycle of crisis can develop, which could later lead to incarceration for the child."

One example of efforts to address the needs of children with incarcerated parents comes from Oregon, where the Children of Incarcerated Parents Project workgroup was convened in 2000. In 2001, the state approved SB 133, which required the Children of Incarcerated Parents Project workgroup to develop recommendations to present to the state Legislature on improving parent-child relationships while parents are involved in the criminal justice system. The recommendations that were developed covered the criminal justice spectrum: arrest, jail, sentencing, prison, and re-entry. A number of products and actions resulted, including the development of a parenting curriculum for inmates, created through a collaboration between the Oregon Department of Corrections and the Oregon Social Learning Center. Also, an Early Head Start Program was utilized at one correctional facility. According to a 2003 report from the Oregon Department of Corrections, "A joint effort between the department and Community Action Head Start of Washington County, the program serves eight children from birth through age three. The children spend three and a half hours, twice a week, in the facility, becoming part

of a playgroup and receiving both health and mental health services. The inmate mothers and the children's caregivers participate in parenting classes and spend time parenting the children.”

And in 2017, the Oregon Legislature passed Senate Bill 241, which established a bill of rights of children of incarcerated parents and directed the Oregon Department of Corrections to develop guidelines for utilizing that bill of rights in policy and procedure decisions that affect incarcerated individuals with children.

Existing coalitions that support children of incarcerated parents and caregivers: A number of voluntary networks have formed in California to support children of incarcerated parents and caregivers:

Alameda County Children of Incarcerated Parents Partnership (ACCIP): ACCIP was a regional coalition of social service providers, representatives of government bodies, advocates, and others who work to improve the lives of children of incarcerated parents through increasing awareness and advocating for policy and program creation or reformation. ACCIP formed workgroups to address reentry matters that impact children and families, police arrest protocols, and data collection and policy recommendations for children and incarcerated and justice-involved parents throughout Alameda County.

Bay Area Children of Incarcerated Parents Partnership (BAYCIPP) formerly ACCIP: BAYCIPP is a regional coalition designed to leverage resources, advocate for systems change, foster regional relationships, implement relevant programs, and raise public awareness for children with incarcerated parents. The Coalition promotes education, training, and policies that safeguard children of incarcerated parents and hosts the Bay Area Summit on Children of Incarcerated Parents, which most recently focused on the impact of COVID-19 on this population and how to support children to build resilience.

San Francisco Children of Incarcerated Parents Partnership (SFCIPP): SFCIPP is a coalition of social service providers, representatives of government bodies, advocates, and others who work to improve the lives of children of incarcerated parents. In 2003, SFCIPP published a Bill of Rights for Children of Incarcerated Parents and in 2009, the Legislature adopted Senate Concurrent Resolution No. 20 (SCR 20), by Senator Liu, which encouraged a number of state and local entities that interact with children of incarcerated parents to distribute the SFCIPP-developed bill of rights to identified children of incarcerated parents. The bill of rights was established as a guide toward systemic changes to better ensure the wellbeing of children whose parent was arrested and/or incarcerated, such as: implementing police protocols to minimize trauma on children who are present at the time of their parent's arrest, establishing policies to children who are placed in foster care, and reforming sentencing laws. State and local entities are encouraged to utilize the bill of rights for analysis and determination of procedures when making decisions about services for the children of incarcerated parents.

Need for this bill: The provisions of this bill seek to examine and address the needs of children impacted by parent or caregiver incarceration, which falls disproportionately on communities of color with low incomes. As the bill notes, there is currently no state entity responsible for serving children of incarcerated parents. This bill would establish a task force to make specific policy and fiscal recommendations to the Legislature, including potential amendments to state law that

would consider the needs and service priorities for children of incarcerated parents and caregivers.

Research has shown that children with an incarcerated parent are more likely to experience more ACEs than their peers who do not have an incarcerated parent. ACEs are exposures that are associated with increased risk for trauma, or toxic stress, particularly when they are cumulative. The National Research Council states that while some level of stress can be manageable or even positive, sustained or extreme stress can lead to various kinds of physiological dysfunction, disease, and early mortality.

According to the author, “In the United States, over 5 million children have experienced parental incarceration at some point in their lives. In California alone, 503,000 children have had a parent in jail or prison. Parental or caregiver incarceration is an adverse childhood experience, and research has shown the harmful effects it can have on children: mental health and behavioral problems, low educational attainment, involvement with the criminal justice system, housing insecurity, and economic hardship.

“Notably, children of color and children from low-income families are disproportionately impacted. In fact, children living in poverty are more than three times as likely to have experienced parental incarceration. Children whose parents have little education are 41% more likely to have experienced parental incarceration. Children who live outside of metropolitan areas are more likely to have experienced parental incarceration.”

RELATED AND PRIOR LEGISLATION:

AB 2250 (Thurmond) of 2018, would have convened a working group within the Board of State and Community Corrections to develop a set of principles guiding policy and procedural decisions impacting children of incarcerated parents, and to make recommendations to the Legislature for potential revisions to state law. AB 2250 was held on the Assembly Appropriations Committee suspense file.

AB 3007 (Eduardo Garcia) of 2018, would have authorized Riverside County to establish a Children of Incarcerated Parents Program. AB 3007 died on the Assembly Inactive File.

SCR 20 (Liu), Chapter 88, Statutes of 2009, encouraged the California Department of Social Services, Department of Corrections and Rehabilitation, Office of the State Foster Care Ombudsman, and other entities that interact with children of incarcerated parents, to distribute the San Francisco Children of Incarcerated Parents Partnership Bill of Rights.

AB 2316 (Mazzoni), Chapter 965, Statutes of 2000, required from 2003–2009, the California Research Bureau to conduct a study on women incarcerated and the effects it may have on their children.

AB 2315 (Mazzoni) of 2000, would have established the “Children of Incarcerated Parents Act of 2000” to ensure the temporary and long-term safety of the children of incarcerated parents. This bill would have, among other things, required that when a defendant is to be incarcerated, the sentencing report include a discussion of the arrangements for the care of a defendant’s children and that criminal court judges inquire whether a defendant has made arrangements for

the care of their children. AB 2315 was vetoed by Governor Davis.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Child of Incarcerated Parents Partnerships (Co-Sponsor)
Children's Defense Fund - CA (Co-Sponsor)
Community Works (Co-Sponsor)
GRACE Institute - End Child Poverty in Ca (Co-Sponsor)
San Francisco District Attorney's Office (Co-Sponsor)
A New Way of Life Re-entry Project
California for Safety and Justice
Communities United for Restorative Youth Justice (CURYJ)
East Bay Family Defenders
Ella Baker Center for Human Rights
Essie Justice Group
Initiate Justice
Legal Services for Prisoners with Children
Rubicon Programs
Uncommon Law

Opposition

None on file

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