

Date of Hearing: March 12, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
AB 337 (Quirk-Silva) – As Introduced January 31, 2019

SUBJECT: Foster care payments: reasonable travel reimbursement for school

SUMMARY: Requires a county to provide a foster care provider with a notice of action (NOA) related to whether a foster youth is eligible for reasonable travel reimbursement and includes among existing requirements for certain placements made on and after July 1, 2018, the requirement that a county provide a payment to an emergency caregiver to cover the cost of reasonable travel to a foster youth's school.

Specifically, **this bill:**

- 1) Requires a county, at the time of placement, to provide a foster care provider with an NOA regarding whether a youth or nonminor dependent is eligible for reasonable travel reimbursement for purposes of allowing that youth or nonminor dependent to remain in the school in which they were enrolled at the time of placement.
- 2) Requires the NOA to include a statement of an individual's right to a state hearing, as specified in current law.
- 3) Includes among the existing requirements for counties related to emergency caregiver placements made on and after July 1, 2018, as specified, the requirement that each county provide a payment to an emergency caregiver in order to cover the cost of reasonable travel for a foster youth to remain in the school in which the youth is enrolled at the time of placement.
- 4) Makes technical 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 [WIC] Code 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) States the intent of the Legislature to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with his or her biological family whenever possible, or to provide a permanent placement alternative, such as adoption or guardianship. (WIC 16000)
- 4) Requires a social worker to, within 30 days, conduct an investigation to identify and locate all grandparents, parents of a sibling of the child, and other relevant family members, as

specified, and provide those individuals with certain information related to the removal of the child from their parent's or parents' custody. (WIC 309 (e))

- 5) Defines "foster care maintenance payments" as payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement, among other components. (42 USC 675 (4)(A))
- 6) Requires foster care providers be paid a per child per month rate in return for the care and supervision of the Aid to Families with Dependent Children-Foster Care (AFDC-FC) child placed with them, and defines "care and supervision" as including food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, and reasonable travel for the child to remain in the school in which they are enrolled at the time of placement, among others. (WIC 11460 (a) and (b))
- 7) Requires each county, for placements made on and after July 1, 2018, to provide a payment equivalent to the resource family basic level rate to an emergency caregiver on behalf of a child or nonminor dependent placed in the home of a caregiver, or based on a compelling reason, if certain criteria are met, as specified, for emergency or compelling reason placements made during the 2018-19 fiscal year. (WIC 11461.36 (b))
- 8) Defines "school of origin" as the school in which the pupil is enrolled at the time that a change in residence occurs. (Education Code Section 48204.6 (a)(3))
- 9) Requires a state child health plan (State plan) to describe the steps a state educational agency will take to ensure collaboration with child welfare agencies to ensure stability of children in foster care, as specified. (20 USC 6311 (g)(1)(E))
- 10) Requires a local education agency plan to provide assurances that the local education agency will collaborate with the State or local child welfare agency to ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner, among other requirements. (20 USC 6312 (c)(5))
- 11) 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))
- 12) 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))
- 13) Requires a State plan provide for the granting of an opportunity for a fair hearing before the State agency to any individual whose claim for benefits, as specified, is denied or is not acted upon with reasonable promptness. (42 USC 671 (a)(12))
- 14) Affords any applicant for or recipient of public social services who is dissatisfied with any action of the county department related to their application for or receipt of public social services the opportunity for a state hearing. (WIC 10950 (a))

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, 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 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.

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.

Resource Family Approval: process and requirements: The Resource Family Approval (RFA) program, authorized by AB 340 (Hancock), Chapter 464, Statutes of 2007, began as a pilot program in five counties, including Santa Barbara, San Francisco, San Luis Obispo, Kings, and Santa Clara from November 2013 to August 2014. Between January and July of 2016, an additional 9 counties volunteered to implement RFA, and on January 1, 2017, SB 1013 (Senate Committee on Budget) Chapter 35, Statutes of 2012, implemented RFA statewide.

RFA is a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship approval processes. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families, including relatives, in order to ensure that caregivers are equipped to best meet the needs of youth in foster care. RFA is also a route to direct permanency for caregivers who wish to adopt or be guardians of youth in care, as the RFA process includes elements required by both the adoption and guardianship processes.

Emphasis on placement with relatives: It has long been the goal of the CWS system to preserve familial ties wherever possible. Under certain circumstances, services are provided to families in order to prevent the removal of a child from their parent's or parents' home, including family therapy, parenting classes, or substance use treatment. However, in instances when a youth is removed from their parent's or parents' custody and placed in the CWS system, county social workers are required to locate any relatives or nonrelative extended family members (NREFMs)

who may serve as caregivers to the youth. When a relative agrees to become a caregiver, it is often done on an emergency basis; as such, these emergency caregivers are not yet approved as resource families, and therefore do not receive many of the supports and services afforded to caregivers approved through the RFA process, including foster care payments, which help provide for the needs of foster youth. Current law requires resource family approval be completed within 90 days of a youth's placement with an emergency caregiver, however, it is widely acknowledged that there exists a backlog of approving resource family applicants. In March 2018, the Senate Human Services Committee examined the implementation of CCR, with a portion of the hearing focusing on the RFA backlog. The background paper prepared for the hearing stated that, "...while some counties have been able to complete the process for most families within the 90 days required by CDSS, others have struggled to clear families for approval." Based on an analysis of CDSS data by the Legislative Analyst's Office, as of February 2018, since RFA went statewide on January 1, 2017, 16,263 RFA applications had been received and 6,667 RFA applications were taking longer than 90 days to approve. Of those, 1,795 were approved after 90 days, however, 4,872 remained pending after 90 days. Still, some caseworkers have described delays lasting up to six, and even nine months.

Pre-approval funding for caregivers: Prior to March 2018, foster care payments were only available to caregivers who had been approved as resource families; for relatives of foster youth who provided care on an emergency basis, this source of financial support was unavailable until resource family approval was obtained, which, when combined with delays in resource family approval, left many emergency caregivers financially unable to provide for the needs of foster youth. As a result, youth were often removed from the home, resulting in disrupted placements and further traumatization of youth. In recognition of the needs of emergency caregivers, AB 110 (Assembly Committee on Budget), Chapter 8, Statutes of 2018, required each county to provide Emergency Caregiver (EC) payments to emergency caregivers in the amount equal to the basic rate paid to resource families. The requirements of AB 110 were in effect through June 30, 2018; however, AB 1811 (Assembly Committee on Budget), Chapter 35, Statutes of 2018, took effect on July 1, 2018, and made EC funding available for emergency or compelling reason placements made on or after July 1, 2018, and until June 30, 2019, for up to 180 days, and up to 365 days in certain cases. The provisions of this bill would include an additional payment for the cost of covering travel reimbursements in the pre-approval payment made to emergency caregivers.

Educational stability for foster youth: Current law affords foster youth the right to remain in the school in which they were enrolled at the time they experienced a change in placement (known as their "school of origin"). It is an unfortunate reality that youth placed in foster care experience frequent changes in placement, sometimes across county lines with relatives or caregivers who live far away from the community in which a foster youth is established, both socially and educationally. These frequent changes in placement can situate foster youth behind their non-system involved peers in terms of high school graduation rates and higher educational attainment. A 2018 report by the John Burton Advocates for Youth states that "...at age 17, 89% of foster youth indicated a desire to go to college, however, a 2011 study found that by age 26, just 8% of foster youth held an Associate or Bachelor's degree as compared to 46% of their peers." A 2012 report entitled "Charting the Course: Using Data to Support Foster Youth College Success," states that California foster youth in K-12 are more likely to experience school disruption, be classified with a disability, and be enrolled in the lowest-performing schools than students without foster care involvement.

In 2008, H.R. 6893, known as the Fostering Connections to Success and Increasing Adoptions Act of 2008, was signed into law and specified that the definition of federal foster care payments includes the cost of reasonable travel required to maintain a youth in their school of origin. In December 2015, President Obama signed S. 1177, known as the Every Student Succeeds Act, which required states to ensure the educational stability of foster youth, including a the requirement that local education agencies (LEAs) collaborate with state or local child welfare agencies to implement clear, written procedures related to the provision of prompt, cost-effective transportation to allow foster youth to remain in their schools of origin. In short, federal statute makes multiple references to the importance of ensuring educational stability for foster youth, and research by advocates demonstrates the need to provide foster youth with educational stability.

On September 23, 2011, CDSS issued ACL 11-51, which outlined the educational travel rate per month per child based on the one-way distance from foster care placement to school of origin (in miles), as is explained in the following chart:

Distance from foster care placement to school of origin (in miles) one way	Educational travel rate per month per child
Up to 3 miles	\$0
4 to 8 miles	\$58
9 to 13 miles	\$154
14 to 18 miles	\$250
19 to 23 miles	\$347
24 or more miles	\$443

Need for this bill: Federal and state law recognize the importance of educational stability for youth in foster care. The Fostering Connections to Success and Increasing Adoptions Act in 2008 required foster care maintenance payments to cover the cost of reasonable travel for a child to remain in the school in which the child was enrolled at the time in placement. In 2015, the adoption of the Every Student Succeeds Act (ESSA) required that a youth’s case plan include an educational stability plan, and required LEAs to collaborate with child welfare agencies to develop and implement clear and written procedures governing how transportation to maintain foster youth in their school of origin will be provided, arranged for, and funded. ESSA also requires LEAs to ensure that children in foster care who require transportation to their school of origin promptly receive transportation in a cost-effective manner.

Federal requirements also stipulate that foster care maintenance payments cover the cost of, and the cost of providing, reasonable travel for a foster child to remain in their school of origin. California statute reflects this and requires foster care providers be paid a per-child, per-month rate in return for the “care and supervision” of youth placed in foster care, which includes reasonable travel for a youth to remain in their school of origin. ACL 11-51, as it relates to the provision of the cost of reasonable travel for a foster youth to remain in their school of origin states, “Accordingly, eligibility for reimbursement for the cost of educational travel as described

in this ACL, assuming that all other eligibility conditions are met, commences simultaneously with the commencement of the child's eligibility for a foster care maintenance payment.”

The 2018-19 Budget Act, through adoption of AB 110 and AB 1811 and in recognition of the financial burdens experienced by emergency caregivers, authorized funding to provide financial support to emergency caregivers who had not yet been approved as resource families. The provisions of this bill seek to further the intent of state and federal law by requiring that reimbursements for the costs of educational travel also be provided to emergency caregivers and at the same time emergency caregivers receive emergency funding payments. This bill would also require foster care providers, including emergency caregivers, to be notified through a notice of action about whether a foster youth is eligible to receive travel reimbursements, and would therefore notify providers of their right to a state hearing should their benefits be delayed or denied.

According to the author, “Foster youth are entitled to remain at their school of origin, but without immediate access to transportation reimbursement, this may not always happen. When a child comes into foster care, the first goal is to connect that child to a relative or extended family member. These individuals are generally not yet approved as a resource family and the placement may be unexpected. They take placement first and then start the [resource family] approval process, which can take many months to complete. While there is funding available to reimburse families for the cost of transporting children to their school of origin, the funding is not available until the home is approved. Resource Family Approval takes, on average, 120 days (most of a school year). This bill will ensure [that] transportation reimbursement initiates at the time of placement to maintain stability and improve educational outcomes. In addition, many caregivers are not aware of the funding to reimburse for the cost of transportation. This bill will ensure all caregivers accepting placement of a child receive notification of their right to receive funding to offset the cost of transporting a child to their school of origin. The decision to move the child to a new school may be made swiftly if such notice is not provided. Our foster caregivers and the children in their care deserve all available resources when education decisions are made.”

PRIOR LEGISLATION

SB 1083 (Mitchell), Chapter 935, Statutes of 2018, made certain changes to the parameters of resource family approval related to foster family homes that have not yet been approved as resource family homes, placement requirements for the Kin-GAP Program, and voluntary placement agreements, among other components.

AB 2183 (Rubio), 2018, would have provided funding to emergency caregivers who have applications under the RFA program, would have required counties to initiate funding to relatives or NREFMs immediately following the placement of a child, and would have allowed a county to approve an individual or family as a resource family prior to the completion of a permanency assessment. It was held on the Assembly Appropriations Committee suspense file.

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

AB 1811 (Assembly Committee on Budget), Chapter 35, Statutes of 2018, required each county to provide payment to an emergency caregiver in an amount equal to the basic level rate paid to

resource families, effective July 1, 2018, and deemed emergency caregivers who were eligible to receive funding under AB 110 as eligible for funding with no break in payment.

AB 110 (Assembly Committee on Budget), Chapter 8, Statutes of 2018, provided interim funding for emergency caregivers through June 30, 2018, in order to mitigate the financial burden on families with whom children are placed on an emergency basis.

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.

S. 1177 (Alexander), P.L. 114-95, 2015, known as the Every Student Succeeds Act, replaced No Child Left Behind, and required states to take certain steps to ensure the educational stability of foster youth, including the requirements that certain entities collaborate to create procedures to provide transportation to youth to remain in their schools of origin.

H.R. 6893 (McDermott), P.L. 110-351, 2008, known as the Fostering Connections to Success and Increasing Adoptions Act, included funds to transport a foster youth to their school of origin as a part of the federal foster care payment.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance For Children's Rights
California Alliance of Child and Family Services
California Youth Connection
Children's Law Center of California
East Bay Children's Law Offices
John Burton Advocates For Youth
Lincoln
National Center For Youth Law
Trinity County Office of Education

Opposition

None on file

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