

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 47 (Reyes) – As Amended April 15, 2020

SUBJECT: Human services: coordinated immigration support services

SUMMARY: Requires the California Department of Social Services (CDSS) to establish a program that provides grants for multitiered and coordinated immigration support services in California for undocumented and mixed-status families who reside in the state and who experienced family separation at the border. Specifically, **this bill:**

- 1) Makes Legislative findings and declarations related to the effects of the federal government’s “zero tolerance” family separation policy and the need for coordinated social services to address the trauma of separation.
- 2) States Legislative intent to create a program to provide a unified and coordinated response to the needs of immigrant children and families who have been affected by family separation at the southern border of the state. Further, states that the program created by the provisions of this bill would serve to connect immigrant children and families to existing resources that may address their various needs, including, but not limited to: immigration services, food security resources, and mental health services.
- 3) Defines “department” as CDSS.
- 4) Defines “multitiered and coordinated immigration support services” as the coordinated provision of four core service components, including: a statewide centralized warmline; care coordination and case management; a flexible funding pool; and, trauma-informed services.
- 5) Defines “promotorxs,” as individuals who serve as a bridge between the community and the services system and nonprofit safety net, providing health education, health promotion, prevention, informational counseling, and referral information, as well as resources in a manner that is culturally and linguistically appropriate, and who function as cultural brokers who possess a unique understanding of often difficult-to-reach communities. Further, declares that promotorxs may include community health workers, peer leaders, and well-being advocates.
- 6) Defines “qualified nonprofit organization” as a 501(c)(3) nonprofit organization with demonstrated experience providing the four core service components of multitiered and coordinated immigration support services.
- 7) Requires CDSS to establish a program that provides grants to qualified nonprofit organizations for the provision of multitiered and coordinated immigration support services in California to undocumented and mixed-status families who reside in the state and were separated by the federal government’s “zero tolerance” policy, in order to create a statewide warmline infrastructure and provide services to communities in need.
- 8) Permits CDSS to work in consultation with stakeholders to further understand the needs of qualified nonprofit organizations working to support these families.

- 9) Requires the program to provide grants to a qualified nonprofit organization or multiple qualified nonprofit organizations who meet all of the following criteria:
 - a) Have a presence serving communities across one or more counties in the state;
 - b) Have demonstrated experience providing culturally and linguistically responsive cross-sector services, including social services, behavioral health services, education, and legal services systems; and,
 - c) Have demonstrated experience providing trauma-informed care to families affected by immigration policy in the United States.

- 10) Requires the multitiered and coordinated immigration support services funded by grants provided under the program to include the provision of the following four core service components:
 - a) A centralized warmline that makes a confidential, toll-free statewide helpline available, provides services in the range of language spoken by children, guardians, and families, as applicable, triages caller needs and provides case management or linkage to local community-based providers, and utilizes developed partnerships with promotorxs that help promote utilization of the warmline;
 - b) Care coordination and case management that connects families to certain services, including, but not limited to, legal services, vocational services, and education services, among others, as specified;
 - c) Administration, provision and tracking of a flexible, state-furnished funding pool to address comprehensive basic needs of families; and,
 - d) Trauma-informed, culturally relevant services, including but not limited to, individual therapy for parents, caregivers, and children, family therapy, and group therapy.

- 11) Requires qualified nonprofit organizations that receive a grant under the program to submit annual reports to CDSS that include:
 - a) The number of serve requests received;
 - b) The number of individuals served;
 - c) Whether individuals were served directly by the qualified nonprofit organization or by a community-based organization, or whether the individual was connected to another qualified organization; and,
 - d) The type of services requested or provided.

EXISTING LAW:

- 1) Defines “unaccompanied undocumented minor” in state law to mean the same as “unaccompanied alien children” in federal law, which defines an unaccompanied alien child to mean a child who has no lawful immigration status in the United States, had not yet reached 18 years of age, and with respect to whom either there is no legal parent or guardian

in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody. (Welfare and Institutions Code Section [WIC] 13300(c); 6 United States Code Section [USC] 279(g)(2))

- 2) Defines, under federal law, a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to AB 1324 Page 3 their country of nationality or last habitual residence is not in the juvenile's best interest. Allows such person to obtain Special Immigrant Juvenile Status and, based on that, apply for a visa for lawful permanent residency. (8 USC 1101(a)(27)(J); 8 Code of Federal Regulations Section 204.11.)
- 3) Requires CDSS, subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement (ORR) and who are present in the state. (WIC 13300 *et seq.*)
- 4) Requires CDSS to provide grants to qualified organizations for the purpose of providing services that include: service to assist with the application process for initial or renewal requests of deferred action under the Deferred Action for Childhood Arrivals (DACA) policy with the United States Citizenship and Immigration Services; services to obtain other immigration remedies; services to provide legal training and technical assistance, among others. (WIC 13303(a) and (b))

FISCAL EFFECT: Unknown

COMMENTS:

Immigration in the United States: An August 2020 report on immigration found that, in 2018, the U.S. foreign-born population reached a record 44.8 million people, and the number of immigrants living in the United States (U.S.) had nearly quadrupled since 1965. In 2017, the top countries of origin for immigrants living in the U.S. included Mexico, China, India, the Philippines, and El Salvador. Nearly half (45%) of the country's immigrants reside in California, Texas, and Florida; in 2018, California had the largest immigrant population of any state with approximately 10.6 million immigrant residents.

While a vast majority of immigrants (approximately 77% of the immigrant population in 2017) reside in the U.S. legally, the number of immigrants living in the U.S. without authorization more than tripled between 1990 and 2007 (from 3.5 million to 12.2 million, respectively). By 2017, the number of individuals living in the U.S. without authorization had declined from 2007 levels by 14% for a total of 10.5 million.

According to federal data, Customs and Border Patrol (CBP) agents apprehended more migrants at the U.S.-Mexico border in fiscal year 2019 than in any other year since fiscal year 2007, and the number of apprehensions at the U.S.-Mexico border doubled between fiscal year 2018 and fiscal year 2019 (from 396,579 to 851,508, respectively). In 2019, for the fourth consecutive year, the number of migrants arriving from other countries surpassed the number of migrants arriving from Mexico. Seventy-one percent of migrants arrived from nations referred to as the

Northern Triangle: Guatemala (264,168), Honduras (253,795), and El Salvador (89,811). Of the total number of apprehensions at the border in 2019, 473,682 (56%) were members of a family unit. Apprehensions of unaccompanied children ages 17 and younger also reached their highest level on record, with 76,020 in fiscal year 2019, compared with the previous high of 68,541 in 2014.

Recent surges in immigration: A February 26, 2021, New York Times (NYT) article states that, “Within days of taking office, [President] Biden swiftly signed a series of executive orders to reverse several of [President Trump’s] measures. But the pressure seems to be escalating before his administration has had time to make the preparations it says are needed to manage a substantial number of new arrivals—ramping up border facilities, adding to the staff, and coordinating with Mexico.”

A subsequent NYT article dated March 8, 2021, describes the recent influx of migrants arriving at the southern border, and according to the article, the number of migrant children in custody along the border had tripled in the two weeks preceding the article’s publication to more than 3,250. Additionally, immigration authorities were expected to announce that there were close to 100,000 apprehensions, including encounters at port entries in February, an additional 19,000 migrants, including adults and children, have been caught by border agents between March 1 and the date on which the article was published. This recent influx has been partially attributed to deteriorating conditions in Central America, including poverty and violence, as well as perceptions by migrants that a Biden Administration may be more welcoming than previous federal administrations.

Family separations at the border: While the issue of family separation is often characterized by families arriving at the border together and then being forcibly separated for months or years at a time, family separation can also occur as a result of increased enforcement efforts by Immigration and Customs Enforcement (ICE) officials. Often, undocumented individuals live with family members in communities throughout the U.S.; as a result of increased enforcement and raids by ICE officials, individuals who are undocumented are apprehended and detained in detention facilities, while their loved ones remain behind in the community. Additionally, family separation can occur in instances where a child arrives at the border with a parent, is forcibly separated and placed in the ORR custody, and is placed with a caregiver in the community who, due to their own immigration status, is then apprehended and detained by ICE officials.

While family separations at the border garnered increased attention under the Trump Administration due to drastic increases in the number of separated families, separations did occur, albeit rarely, under previous federal administrations. Prior to the adoption of the zero tolerance policy, migrant families apprehended while attempting to enter the country without authorization were usually referred to civil deportation proceedings. Family separations were rare and occurred when there was concern over the child’s health or welfare, as is required by provisions of the *Flores* settlement. In November 2016, only 0.3% of migrant children in the U.S. Department of Health and Human Services (HHS) custody were known to be separated from their parents.

Instances of family separation under the Trump Administration first began in July 2017 when CBP implemented the El Paso Pilot Program. The goal of the program was to increase criminal prosecutions of apprehended individuals, including parents arriving with minor children. The pilot program lasted five months, during which Trump Administration officials learned that the

federal government was unable to track separated family members in a way that allowed for later reunification of children and their parents. Still, the federal government proceeded to expand the El Paso Pilot Program into a permanent, nationwide policy. On April 6, 2018, U.S. Attorney General Jeff Sessions formally announced the federal government's zero tolerance policy for certain immigration offenses. The policy required each U.S. Attorney's Office on the Southwest border to prosecute all referrals for illegal entry violations, including misdemeanors, referred by the Department of Homeland Security (DHS). A January 2021 report by the Department of Justice (DOJ) Office of Inspector General found that, "...Following the DOJ issuance of the zero tolerance policy, DHS changed its practice and began referring family unit adults to DOJ for criminal prosecution and the [DOJ] agreed to prosecute these cases. As a result, more than 3,000 children were separated from their families and issues regarding reuniting children with their parents remain as of this date."

Impacts of family separations: The stress and trauma caused by forced family separations, the conditions in which children reside when in CBP custody, and the confusion of legal proceedings can be detrimental to the emotional and mental well-being of children and parents alike. Children separated from their families at the border not only face the trauma caused by disruptions in their attachments to caring adults, but are also processing the circumstances that led them to seek asylum in the first place such as war and violence in their home countries. When a person experiences a traumatic event, particularly when the experience is frequent or prolonged, the body's biological stress response activates what is known as the toxic stress response. When toxic stress occurs in young children, the hormones released can cause cognitive delays, increase one's risk for psychological disorders, and stunt physical and emotional growth.

Forced family separations at the border can also result in a disruption in the attachment bond between a child and parent. This trauma, known as relational trauma, can lead to delays in emotional, mental, and even physical development. The importance of secure attachment is a key tenet of child welfare policy throughout the country, particularly in California, where maintaining family units whenever possible is a primary goal of the child welfare system.

Although there is less data on the long-term effects that family separation has on adults, the immediate trauma of the event is apparent. Adults in families who are separated commonly experience anxiety, post-traumatic stress, and depression. Psychologists who focus on these populations have also reported the emotional complications and unique challenges that these parents face while undergoing reunification with their children. After the exhaustive process of legal reunification is complete, research has shown both the child and parent in these situations can feel disoriented and disconnected from their family. Specific training models and therapy techniques are used in the supports provided to these families to address the difficult transitions and complex emotions that they often experience.

Litigation related to family separations: While there have been numerous class action lawsuits filed on behalf of individuals and families in the immigration system, key lawsuits as they pertain to the provisions of this bill include:

- *Flores v. Reno*: filed on July 11, 1985, originated in a lawsuit based on the experience of Jenny Flores, a 15-year-old girl who had been apprehended trying to enter the U.S. without authorization and who was subsequently detained in an Immigration and Naturalization (INS) facility. During Jenny's time in custody, "...She was 'handcuffed, strip searched, and placed...in a juvenile detention center where she spent the next two months waiting for her

deportation hearing.’ The INS placed Jenny in a facility that did not provide educational, nor many recreational opportunities. Furthermore, some of the minors in the facility had to share ‘bathrooms and sleeping quarters with unrelated adults of both sexes.’”

The result of the class action lawsuit was the 1997 *Flores* settlement agreement that established minimum standards for initially-detained children. Specifically, the settlement requires that:

- “Facilities provide children in [government] custody with access to sanitary and temperature-controlled conditions, water, food, medical assistance, ventilation, adequate supervision, and contact with family members;
- “Facilities ensure that children are not held with unrelated adults;
- “The government release children from detention without unnecessary delay to parents or other approved sponsors; and,
- “If a child cannot be released from care, the child be placed in the ‘least restrictive’ setting appropriate, based on their age or needs.”

Additionally, the *Flores* settlement agreement required ORR facilities to: comply with all applicable state child welfare laws and regulations; and, be licensed by an appropriate state agency to provide residential, group, or foster care services for dependent children. Litigation alleging repeated violations of the *Flores* settlement by the government is ongoing.

The previously discussed March 8, 2021, NYT article describes the youth arriving at the border as part of the recent influx of migrants as unaccompanied; as such, these youth are not likely to have been separated from parents or adults. Still, laws dictating the treatment of these youth apply, including the requirement that youth not be detained in border facilities for more than 72 hours. Despite this, according to the article, more than 1,360 children were detained for longer than 72 hours, and 169 of those children are younger than 13 years old.

- *Ms. L. v. U.S. Immigration and Customs Enforcement*: filed on February 26, 2018, is a national class action lawsuit seeking to halt and undo the Trump Administration’s family separation policy. On June 26, 2018, the district court issued a preliminary injunction ordering the U.S. government to do so, and to reunify all families that had already been separated. The court also stayed the deportation of separated families. The case is ongoing.
- *Ms. J.P. v. Barr*: filed on July 12, 2018, is a national class action lawsuit filed on behalf of parents separated from their minor children upon entering immigration detention in the U.S. as a result of the Trump Administration’s family separation policy. The lawsuit sought to require the federal government to provide mental health services to these parents and children. Under the terms of a preliminary injunction, class members may elect to receive mental health screenings, diagnosis, and treatment by qualified professionals. The case is ongoing.

Services to immigrant children and families: A number of services and supports intended to provide assistance and resources to immigrant children and families are administered at both the federal and state levels. At the federal level, The Unaccompanied Children Program provides access to legal services to youth who are under the age of 18, lack lawful immigration status, and

have no parent or legal guardian in the U.S. who can provide them with care and physical custody. Additionally, services have been provided as a result of class action litigation, including the *Ms. J.P. v. Barr* lawsuit. Specifically, the federal HHS awarded Seneca Family of Agencies, a California-based nonprofit organization that provides mental health, education, permanency, and juvenile justice services to children and families, a \$14.4 million contract to locate *Ms. J.P.* class members and inform them that mental health assessment and treatment is available.

As a result, Seneca developed and leads *Todo Por Mi Familia*, a nationwide effort to connect these families and children to services, as well as coordinate referrals to local mental health providers for interested families. All services provided are free, confidential, and conducted in the families' preferred language. Parents can receive individual therapy, and/or family therapy, depending on what the mental health provider determines is appropriate after an assessment. As of December 2020, Seneca had reached 575 qualified individuals, and has reached individuals in over 30 different states. On average, half of the families who have been contacted have expressed interest in receiving mental health services. While initially set to expire in January 2021, the contract between Seneca and HHS was extended by six months and will expire on July 10, 2021.

State level efforts:

In addition to services provided by the federal government, California has also taken steps to provide for the needs of its immigrant population, including: limitations of detention centers operating in California, providing medical care for immigrant children and young adults, providing additional protections to immigrant families in the child welfare system, and expanding the Earned Income Tax Credit to undocumented families, among many others.

Additionally, CDSS administers a funding program to nonprofit organizations that provide an array of legal services to immigrants, including:

- Assistance with obtaining or renewing DACA status;
- Legal representation for undocumented immigrants facing deportation;
- Consultations for undocumented individuals to discuss with an attorney options for obtaining legal immigration status; and,
- Providing community-based outreach and education to immigrants.

The state allocates approximately \$45 million annually for this program, and first began administering the program in the 2015-16 fiscal year,

Legislative informational hearing: On January 26, 2020, the Assembly Human Services and Judiciary Committees held a joint informational hearing exploring the issue of family separations at the border, the existing state and federal supports available to children and families who have experienced family separation, what gaps exist in the services provided to families who have been reunified, and how California can support these families to address the trauma caused by the federal government's family separation policy.

The hearing explored the mental and emotional effects of family separation and how trauma experienced at a young age can lead to numerous health consequences later in life. Additionally,

parents who had been forcibly separated from their children experienced feelings of depression, anxiety, and guilt. The hearing also discussed the fact that much of the authority to address immigration issues and policy lies with the federal government; state jurisdiction to change certain policies and practices related to immigration is therefore limited. Additionally, while the conditions of the *Flores* settlement require facilities housing children in ORR custody to comply with the licensing laws of the state in which the facility is located. While CDSS's Community Care Licensing Division is responsible for ensuring the facilities meet certain health and safety standards, CDSS does not have authority over the youth themselves. Additionally, ORR is not required to provide CDSS with specific information about the youth themselves.

The hearing also heard testimony related to Seneca Family of Agencies' *Todo Por Mi Familia*, Program and learned that, while California does offer extensive services to immigrant families, there is currently no state-administered program that directly addresses the mental and emotional effects of family separation.

Need for this bill: The provisions of this bill seek to provide for the needs of children and families who had been forcibly separated at the border as a result of the federal government's "zero tolerance" policy towards immigration. Specifically, this bill would require CDSS to establish a grant program to provide multitiered and coordinated immigration support services to undocumented and mixed-status families who reside in the state and were separated at the border. This bill would require the program to provide grants to qualified nonprofit organizations that meet certain criteria, and would require services funded by grants to include four core service components: a centralized warmline; care coordination and case management; administration, provision, and tracking of a flexible, state-furnished funding to address comprehensive basic needs of families; and, trauma-informed, culturally relevant services to address the psychological impact of family separation. Finally, this bill would require qualified nonprofit organizations that receive grants to submit annual reports to CDSS that include certain data.

According to the author, "As a result of the 'zero tolerance' immigration policy, the federal government was mandated to provide mental health screenings and services to those affected by family separation. Upon reunification, many families come to settle in California and are in need of support service to navigate the effects of separation. Services are time sensitive, have a unified and central approach to connecting families to existing services ensuring connection to much needed services. As integral parts of our society, it is our duty to serve the immigrant community of California."

PRIOR AND RELATED LEGISLATION:

AB 1324 (Levine) of 2019, would have required social workers to report to the juvenile court a description of efforts made to help an undocumented immigrant minor obtain legal counsel and immigration relief, and would have required CDSS to, if funding is available, contract with qualified nonprofit legal services organizations to provide legal services to undocumented immigrant children in the child welfare services system. AB 1324 was amended on May 28, 2020 to pertain to best practices for health facilities.

SB 873 (Committee on Budget and Fiscal Review), Chapter 685, Statutes of 2014, required CDSS, subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate

services, to unaccompanied undocumented minors who are transferred to the care and custody of ORR and who are present in the state.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics, California
California Alliance of Child and Family Services
California Family Resource Association
California Teachers Association
Child Abuse Prevention Center
Children Now
First 5 Association of California
First 5 California
Friends Committee on Legislation of California
Nextgen California
Seneca Family of Agencies

Opposition

None on file

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