

Date of Hearing: April 7, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 829 (Levine) – As Amended April 5, 2021

**SUBJECT:** Foster children: immigration counsel

**SUMMARY:** Requires a county to make best efforts to provide undocumented minors and NMDs (NMDs) in foster care under the jurisdiction of the juvenile court with access to immigration legal services; additionally requires counties to submit reports to the California Department of Social Services (CDSS) regarding the process of identifying and meeting the needs of undocumented youth in their county, as specified. Specifically, **this bill:**

- 1) Makes Legislative findings and declarations related to undocumented minor and NMDs within the foster care system and legal services they may qualify for.
- 2) States Legislative intent to create accountability in ensuring that foster children emancipating from foster care have received all immigration relief to which they are entitled and, further, to identify a source of funding to enable counties to provide immigration counsel to all children in foster care.
- 3) Requires a county to make its best efforts to provide undocumented minors and NMDs in foster care under the juvenile court's jurisdiction with access to immigration legal services.
- 4) Requires a county, on or before June 1, 2022, to develop a process for tracking the number of undocumented minor and NMDs in foster care under the juvenile court's jurisdiction and whether these individuals have been provided with access to immigration legal services.
- 5) Requires a county, on or before January 1, 2023, and annually thereafter, to report to CDSS the de-identified data collected through the county process developed as required by these provisions. Requires CDSS, on or before July 1, 2023, and on or before July 1 annually thereafter, to publish a report to its internet website containing the information submitted by counties.
- 6) Requires a county, on or before June 1, 2022, to report to CDSS its internal process for providing undocumented minors and NMDs in foster care under the jurisdiction of the juvenile court access to immigration legal services. Provides a requirement for counties whose system is inadequate to ensure services are provided to this population to include what additional resources it requires to fulfill this need.
- 7) Requires a placing agency that becomes aware that a dependent or NMD is an undocumented immigrant to notify the youth's attorney of this status. Provides that notice, electronic or telephonic, must be provided to the attorney within 72 hours of learning the youth's immigration status.
- 8) 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 of abuse and neglect or to have been abused or neglected, as specified. (Welfare and Institutions Code Section [WIC] 202)
- 2) Provides 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)
- 3) Requires out-of-home placement of a child in foster care to be based upon the selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and the most appropriate setting that meets the child's individual needs, as specified. (WIC 16501.1(d)(1))
- 4) Defines "NMD" 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))
- 5) Clarifies the purpose of provisions regarding dependent children as to provide the 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)
- 6) Clarifies the purpose of provisions regarding dependent children as to provide the 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)
- 7) Provides that for the purposes of state law, "unaccompanied undocumented minor" (UUM) will reference the federal legal term "unaccompanied alien children," as specified. (WIC 13300(c))
- 8) Requires CDSS to contract, as specified, with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors who are transferred to the custody of the federal Office of Refugee Resettlement. (WIC 13301)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***Child Welfare Services (CWS):*** California's CWS system was established with the goal of protecting youth from abuse and neglect. The system works through collaboration to provide for the safety, health, and overall well-being of children. When a child is identified as being at risk of abuse or neglect, reports can be made to either law enforcement or a county child welfare agency. Often, reports are submitted by mandated reporters who are legally required to report any suspicion of child abuse or neglect due to their profession. When a mandated reporter submits a report to either law enforcement or the county child welfare agency, a social worker determines whether the allegation is of suspected abuse, neglect, or exploitation. The child's

social worker and the court collaborate throughout evaluating and reviewing the circumstances of each individual's case. When appropriate, the CWS system also works to reunite children who have been removed from the custody of their parents or guardians with individuals they consider to be family to maintain familial bonds wherever possible. As of October 1, 2020, there were 60,045 youth placed in the state's child welfare system in total.

***Special Immigrant Juvenile Status (SIJS):*** SIJS is a classification used by federal immigration to help undocumented youth remain in the country under specified protections. SIJS was established in 1990 at the federal level and has been expanded upon by several states to allow access to services for immigrant children, including allowing for lawful permanent resident status. Under the Trafficking Victims Protection Reauthorization Act, any unmarried undocumented individual under age 21 who has been abused, neglected, or abandoned by a parent and has been declared a dependent of the juvenile court or been committed to the custody of specified entities may seek SIJS classification. Through current requirements, a large portion of UUMs within California would qualify for SIJS; however, many are unaware of the application process regulations and do not receive their right to service.

***CDSS Unaccompanied Undocumented Minors Legal Services Funding:*** Under current law, CDSS is authorized to provide funding to qualified nonprofit organizations for representation and services provided to UUMs. Financing is available to support nonprofits that provide legal assistance with benefit and service program applications and eligibility that may be available to immigrant youth. Within the populations that these nonprofits may provide services to are those who qualify as SIJS and those seeking asylum and specified visas. Despite the funding currently available to support these efforts, immigrant youth populations continue to grow along with the need for legal assistance.

***Need for this bill:*** This bill would require counties to make their best effort to connect immigrant youth with appropriate legal services and establish a process for tracking and assisting this population. Navigating supportive services and eligibility requirements for benefit programs can be difficult for anyone in a vulnerable state. UUMs in the CWS are processing family separation trauma while searching for security in many areas of their life. These youth often struggle to determine eligibility for programs on their own, sometimes leading those in need to accidentally forfeit their right to services due to deadlines or requirement conflicts. Requiring counties to track data on available services and provide a more significant effort to engage these eligible populations, undocumented minors and NMDs could have greater access to benefits and opportunities for self-sufficiency.

According to the author, “This bill requires counties to provide information to the California Department of Social Services regarding current procedures to identify how many undocumented foster youth or youth who are nonminor dependents they have in their care and provide these youth with immigration legal resources. Counties then must confirm whether the undocumented minors and nonminor dependents in foster care have been provided access to immigration legal services. The bill requires counties to report to the state whether gaps in resources exist to provide these resources to youth and for counties to make their best efforts to provide these youth with access to immigration legal services. This bill will ensure that undocumented youth in California’s foster care system are provided with essential immigration legal services necessary to seek lawful residency in the United States and inform the State about current gaps in resources to achieve this.”

**Double referral:** This bill will be referred to the Assembly Judiciary Committee should it pass out of this committee.

**RELATED AND PRIOR LEGISLATION:**

**AB 1324 (Levine) of 2019**, as it was heard in this committee, 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. AB 1324 was amended substantially such that it no longer fell within the jurisdiction of this Committee.

**SB 873 (Senate Committee on Budget and Fiscal Review), Chapter 685, Statutes of 2014**, required CDSS, subject to the availability of funding, to contract with qualified nonprofit 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 and who are present in the state.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Legal Services for Children (Sponsor)  
Alliance for Children's Rights  
CASA of Los Angeles  
Children Now  
Children's Law Center of California  
Disability Rights California  
Kids in Need of Defense (KIND)

**Opposition**

None on file

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