

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 861 (Chen) – As Amended March 21, 2019

**SUBJECT:** Juveniles

**SUMMARY:** Shortens the amount of time that a social worker has to act on affidavits alleging maltreatment of youth who either are experiencing homelessness or have had formal or informal involvement with the child welfare or juvenile justice systems, and requires any application requesting a review of a social worker’s decision regarding an affidavit to commence proceedings to be acted upon by the juvenile court within 10 days. Specifically, **this bill:**

- 1) States Legislative findings and declarations regarding concern about the welfare of minors on the street who have been victims of abuse and neglect and who often do not have access to services or know where to turn for help.
- 2) Defines, for purposes of the provisions of this bill, “homeless” to mean sleeping on the street or in a vehicle, a shelter, or other temporary accommodations without a permanent residence to which the person can return, or moving frequently between temporary living arrangements with local households, as specified, while lacking a permanent or stable home.
- 3) Reduces, from three weeks to five business days, the amount of time a social worker has to take action on an affidavit alleging maltreatment of, and seeking establishment of juvenile court jurisdiction over, a child who is homeless or who has been in, or received informal services or probation, respectively, through the child welfare services or juvenile justice systems.
- 4) Requires a juvenile court to take action, as specified, on applications requesting review of a social worker’s decision regarding an affidavit alleging maltreatment of, and seeking establishment of juvenile court jurisdiction over, a child within 10 days after that application is made to the juvenile court.
- 5) Makes technical and conforming changes.

**EXISTING LAW:**

- 1) Permits the juvenile court to adjudge a child a dependent of the court for specified reasons, including, but not limited to, if a child has suffered or is at substantial risk of suffering serious physical harm, emotional damage, or sexual abuse, as specified. (Welfare and Institutions Code [WIC] Section 300)
- 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) Declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of their parents, to give preferential consideration to placement with relatives. States the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting and as close to the child's family as possible, as specified. Further states the intent of the Legislature that all children live with a committed, permanent, nurturing family and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (WIC 16000)
- 4) Requires out-of-home placement of a child in foster care to be based upon 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. Further, requires the selection of placement to consider, in order of priority, placement with: relatives, nonrelative extended family members, and tribal members; foster family homes, resource families, and approved or certified homes of foster family agencies; followed by intensive services for foster care homes or multidimensional treatment foster care homes or therapeutic foster care homes; group care placements in the order of short-term residential therapeutic programs, group homes, community treatment facilities, and out-of-state residential treatment, as specified. (WIC 16501.1(d)(1))
- 5) Permits the juvenile court to order and adjudge to be a ward of the court the following individuals, as specified: a minor between the ages of 12 and 17 who has committed a status offense; a minor between the ages of 12 and 17 who violates state or federal law; or, a minor under the age of 12 who is alleged to have committed certain violent crimes. (WIC 725 (b))
- 6) Authorizes a social worker who has determined that a child is within, or will probably soon be within, the jurisdiction of the juvenile court to, in lieu of filing a petition or after a filed petition has been dismissed, undertake a program of supervision of a child, provided the social worker has the consent of the child's parent or guardian. Requires the social worker, if a program of supervision is undertaken, to attempt to ameliorate the situation bringing, or likely bringing, a child within the jurisdiction of the dependency court, by providing or arranging for appropriate family maintenance or voluntary placement services, as specified. Further, authorizes a social worker to file a petition with the juvenile court if a family refuses to cooperate with services provided, as specified. (WIC 301)
- 7) Establishes a process whereby any person can apply to a social worker to commence juvenile proceedings via an affidavit alleging that a youth falls within the jurisdiction of the juvenile court, as specified, and requires that social worker to immediately investigate as they deem necessary to determine whether proceedings in the juvenile court should be commenced. Further, in instances where a social worker does not undertake a program of supervision of a child or file a petition in the juvenile court within three weeks after the application, requires the social worker to endorse upon the affidavit the decision not to proceed further, as specified. (WIC 329)
- 8) Authorizes an individual who has applied to a social worker to commence juvenile court proceedings, if the social worker fails to file a petition within three weeks after the application, to, within one month after making the application, apply to the juvenile court to review the social worker's decision and either affirm that decision or order the social worker to commence juvenile court proceedings. (WIC 331)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***Youth homelessness in California:*** Homeless children and youth are defined by the federal McKinney-Vento Homeless Assistance Act of 2001 as individuals who “lack a fixed, regular, and adequate nighttime residence”; this definition includes children and youth who: have to share housing with others due to loss of housing or economic hardship; are living in motels, hotels, trailer parks, or camp grounds because they lack other accommodations; are living in emergency or transitional shelters; are awaiting foster placement; or have a primary nighttime residence that is not designed as a regular sleeping accommodation for human beings.

In its Annual Homeless Assessment Report (AHAR), the US Department of Housing and Urban Development (HUD) reported that, on a single night in 2018, almost 553,000 people experienced homelessness in the United States. Approximately 36,000 of these individuals were unaccompanied youth – i.e., people under the age of 25 experiencing homelessness on their own – and a full half (51%) of those youth were unsheltered. (This rate is significantly higher than that of all individuals experiencing homeless who were unsheltered, which was 35%.) The AHAR report also found that California reported the largest number of unaccompanied youth experiencing homelessness – 12,396 youth – which represents one-third of all unaccompanied youth experiencing homelessness in the country. While HUD’s point-in-time homelessness counts are useful measures for comparison across populations, states, and years, they are not without their limitations, as they provide data for a single night, which are neither exhaustive of the number of Californians experiencing homelessness on a daily basis nor the number of Californians who experience homelessness each year.

***Child Welfare Services:*** In California during calendar year 2017, almost 500,000 children had allegations of child abuse or neglect made regarding them. Of these children, approximately 71,000 (14%) had allegations that were substantiated, and 28,000 (40% of children with substantiations) were removed from their homes and entered foster care via the state’s Child Welfare Services (CWS) system. (However, children who have reports of abuse or neglect substantiated but are not removed from the home may also receive, along with their families, family maintenance services; these services may in some instances be ordered by the court and, in others, based upon a voluntary agreement with the parent where the courts is not involved. Family maintenance services typically involve a social worker working with a family in the home to prevent and remedy abuse and neglect, and can include a variety of services such as counseling, parent education, respite care, substance use disorder treatment, domestic violence intervention, and victim services.)

The CWS system serves to protect children from abuse and neglect, and to provide for their health and safety. When a county juvenile court finds that a youth is subject to or at substantial risk of maltreatment warranting their removal from the home, the court holds legal jurisdiction over the youth. A youth is served by the CWS system through the appointment of a social worker, and many opportunities exist during which the custody of the youth, or their placement outside of the home, must be evaluated, reviewed and determined by the judicial system, in consultation with the youth's social worker, to help provide the best possible services to the youth. When a youth has been removed from the home, the goal of the CWS system is, often, to reunify them with their parents or guardians, whenever appropriate. When a youth’s reunification with their family is not appropriate, the second highest placement priority of the

CWS system is to place youth with other relatives or nonrelative extended family members. Youth may also be placed in foster homes – referred to as “resource family” homes – overseen by either the county or a foster family agency. Specialized placement and service options also exist for youth with significant behavioral health and other needs; these placements and related services can include, among other options, specially trained intensive services foster care resource families, and intensive, temporary placement in short-term residential therapeutic programs, which are replacing group homes under significant changes adopted in recent years per the state’s Continuum of Care Reform (CCR). As of October 1, 2018, there were 59,487 children in California’s child welfare system.

***Application to commence juvenile court proceedings:*** When an individual suspects a child’s health or safety is in danger due to abuse or neglect by the child’s parent(s) or caretaker(s), they can call a 24-hour hotline to report the suspected maltreatment to the county’s child protective services agency, or contact local law enforcement. Additionally, individuals can apply to the county child welfare agency to immediately commence juvenile court proceedings regarding the child by filing an “Application to Commence Proceedings by Affidavit and Decision by Social Worker” (using Judicial Council form JV-210) alleging that the child is being abused or neglected or is at risk of abuse or neglect. Once a social worker receives this application, they are required to immediately investigate whether juvenile court proceedings should be commenced. If the social worker does not undertake a program of supervision of a child (through providing or arranging for appropriate family maintenance or voluntary placement services) or file a petition in the juvenile court within three weeks after the application is filed, the social worker must state on the affidavit the decision not to proceed further and the reasons for that decision. This statement may in some cases include a recommendation to the applicant to consider commencing probate guardianship for the child. The social worker must immediately notify the applicant of the action taken or decision rendered regarding the child about whom an affidavit was filed.

In instances where a social worker fails to file a petition to commence juvenile court proceedings within three weeks of the application, that individual can apply to the juvenile court to review the social worker’s decision and either affirm that decision or order the social worker to commence juvenile court proceedings, provided this application to the juvenile court is made within one month of the original application to the county child welfare agency.

***Need for this bill:*** This bill seeks to establish a more expeditious process for making decisions regarding applications to commence juvenile court proceedings when the child in question is experiencing homelessness or has experience, either formal or informal, with the child welfare services system or juvenile justice system. These are particularly vulnerable populations of youth for whom the bill proposes to shorten the timeframe in which a social worker has to make a decision regarding the original application to commence proceedings from three weeks to five business days. Additionally, the bill places a ten-day deadline on the requirement for the juvenile court to uphold or overrule a social worker’s decision on an application to commence proceedings when an individual applies to the juvenile court to conduct a review of that decision. By shortening the amount of time a social worker has to act on applications to commence proceedings for particularly vulnerable youth, and by imposing a timeframe during which the juvenile court has to act on any application to review a social worker’s decision in response to an application to commence proceedings, the goal is to get youth assistance as quickly as possible when harm or the potential for harm is determined to exist.

According to the author, “The problem with current law is that there is no urgency to support these minors that are otherwise homeless. These are the state’s children that we have failed to take care of and are trying to come back home. The 3 week time period is too long for a minor to have to wait for their case; especially when youth shelters can only house a minor for exactly 21 days (3 weeks).”

**Double referral:** This bill passed out of the Assembly Judiciary Committee on March 26, 2019, with a vote of 12-0.

**PRIOR LEGISLATION:**

**AB 2001 (Ammiano) of 2014** would have, among other things, placed a five-judicial-day deadline on the requirement that the juvenile court take action on an application to review the decision of a social worker regarding an application to commence proceedings. AB 2001 was held on the Senate Appropriations Committee’s suspense file.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Coalition for Youth  
California Judges Association/Juvenile Court Judges of California  
California Public Defenders Association  
Children Now

**Opposition**

None on file

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