

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 937 (McKinnor) – As Amended April 12, 2023

SUBJECT: Dependency: family reunification services

SUMMARY: Requires, if the juvenile court finds that reasonable family reunification services have not been provided to a parent, the court to extend reunification services for an additional six months, unless the court finds by clear and convincing evidence that extending the time period for reunification services would be detrimental to the child. Specifically, **this bill**:

- 1) Requires, if the child is not returned to a parent or legal guardian at the permanency review hearing, and the court finds that reasonable services have not been provided, the court to extend reunification services for an additional six months.
- 2) Authorizes the court to continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of their parent or legal guardian and safely maintained in the home within the extended period of time, or that reasonable services have not been provided to the parent or legal guardian.
- 3) Clarifies, that if the court finds by clear and convincing evidence based on competent evidence from a mental health professional that extending the time period for reunification services would be detrimental to the child, the court is not required to extend reunification services for an additional six months. Requires the court to state either on the record or in writing, the reasons for its finding, and prohibits the passage of time or the child's relationship with the caregiver from being grounds, in and of themselves, for the denial of further reunification services.
- 4) Requires, if the court extends the time period for family reunification services to be offered, the court to specify the factual basis for its conclusion that reasonable services have not been provided to the parent or guardian.

EXISTING LAW:

- 1) Establishes the juvenile court with jurisdiction over children who are subject to abuse or neglect. (Welfare & Institutions Code Section [WIC] 300 *et seq*)
- 2) Establishes that the purpose of the juvenile court dependency system is the maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that the focus is on the preservation of the family, as well as the safety, protection, and physical and emotional well-being of the child. (WIC 300.2.)
- 3) Requires that if, at the initial hearing, the juvenile court orders a child removed from their parent or guardian due to abuse or neglect, the court to order that child welfare reunification services be provided to the family as soon as possible in order to reunify the child with their family, if appropriate. (WIC 319(e))

- 4) Requires the court, at the dispositional hearing, to order a social worker to provide child welfare services to a child who has been removed from their parents' custody, and to the parents in order to support the goal of reunification, for a specified time period, except under certain circumstances. Provides that children and families in the child welfare services system should typically receive a full six months of reunification services if the child is under three years of age, and twelve months if the child is over three years of age, but that may be extended up to 18 or 24 months, as provided. (WIC 361.5(a))
- 5) Provides that reunification services under 4) above, need not be provided if the court finds, by clear and convincing evidence, that specified conditions exist, including:
 - a) The parent is suffering from a mental disability that renders the parent incapable of using the reunification services;
 - b) The parent has caused the death of another child through abuse or neglect;
 - c) The child or a sibling has been adjudicated a dependent as the result of physical or sexual abuse;
 - d) The parent has been convicted of a violent felony; or,
 - e) The parent has a history of drug or alcohol abuse and has failed to comply with treatment programs as provided. (WIC 361.5(b))
- 6) Prevents a court from ordering reunification services for a parent in specified situations, including the situations set forth in 5) above, unless the court finds, by clear and convincing evidence, that reunification is in the child's best interest. (WIC 361.5(c))
- 7) Requires the court, if a parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security (DHS), or has been deported to the parent's or guardian's country of origin, to order reasonable reunification services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child.
 - a) In determining detriment, requires the court to consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations described in 4) above, and any other appropriate factors.
 - b) Requires the court, in determining the content of reasonable services, to consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with the child, and to document this information in the child's case plan. Provides that the reunification services are subject to the applicable time limitations imposed in 4), above. (WIC 361.5 (e))

- 8) Requires a permanency planning hearing to occur within 18 months after the date the child was originally removed from the physical custody of their parent. (WIC 366.22(a)(1))
- 9) Provides that if the child is not returned to a parent or legal guardian at the permanency review hearing, the court is required to order a hearing to determine whether adoption, guardianship, or foster care is the best plan for the child. (WIC 366.22 (a)(3))
- 10) Allows the court to postpone the permanency review hearing for up to six months when it is in the child's best interests to have additional services provided to any of the following: a parent or guardian making significant progress in a substance abuse treatment program; a parent who was either a minor parent or a dependent parent at the time of the initial hearing and is making significant progress in establishing a safe home for the child's return; or a parent who was recently discharged from incarceration, institutionalization, or the custody of DHS and is making significant progress in establishing a safe home for the child's return. (WIC 366.22(b))

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background: *Child Welfare Services (CWS)*. California's CWS system was established with the goal of protecting youth from abuse and neglect and is designed to provide 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, these reports are submitted by mandated reporters who are legally required to report suspicion of child abuse or neglect due to their profession, such as a teacher or healthcare provider. 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, and creates a case plan which includes the provision of relevant services. The child's social worker and the court collaborate to evaluate and review the circumstances of each case, seeking either reunification or placement outside of the home as a way for the child to achieve permanency.

The court will then determine whether the allegations are true and if the child can remain at home. If the court orders a child to be placed outside of the home, the parent usually receives court-ordered family reunification services. Upon completion of the services, in addition to making any changes or improvements described in the case plan, the court may dismiss the child's court case and the county welfare department case will also be closed. If a parent does not participate in the services set forth in the reunification plan, the court can terminate the services, and therefore change the reunification goal to one of finding a permanent home with a caring adult.

California's CWS programs are administered by the 58 individual counties with each county organizing and operating its own program of child protection based on local needs while adhering to state and federal regulations. When a child welfare case is open, counties are the primary governmental entity interacting with children and families when addressing issues of child abuse and neglect and are responsible, either directly or through providers, for obtaining or providing the interventions and relevant services to protect children and assist families with issues related to child abuse and neglect.

The California Department of Social Services secures federal funding to support child welfare services programs, provides statewide best practices training for social workers, and conducts program regulatory oversight and administration, and is responsible for the development of policy while also providing direct services such as adoption placements.

As of January 1, 2023, there are 52,265 youth between birth and up to 21 years old in foster care.

Dependency court procedure. When a child is removed from the custody of their parent, they are temporarily placed within the jurisdiction of the child welfare system until a determination about the child's welfare is made. Within 48 hours after a child is taken into temporary custody, the county social worker must file a petition with the court requesting that a detention hearing take place in order to determine if further detention of the child is necessary. If a petition to declare the child a dependent of the court is filed by the county social worker, then the detention hearing must be held within 48 hours of the petition being filed. At the detention hearing, the social worker outlines the allegations of abuse or neglect made against the parent and why it is necessary to remove the child from the custody of their parent. If the court determines that removing the child from their parents' custody is in the best interests of the child, the child is then removed. Permanent placement of the child is determined at a later date.

Once a child has been removed from the custody of their parents, a jurisdictional hearing must take place within 15 days. It is at the jurisdictional hearing that the court determines whether the allegations outlined in the social worker's petition are true. If the allegations are deemed to be true, then the child is determined to be within the jurisdiction of the juvenile court and a dispositional hearing must be held within 60 days of the initial detention hearing in order to determine the permanent placement of the child.

At the dispositional hearing the court determines the parameters of the family reunification plan, which includes where and with whom the child will live, be it with relatives or in a foster family home. The reunification plan also can entail recommendations for parents such as parenting classes, anger management, counseling, substance abuse counseling and testing, sexual abuse counseling, parenting training, and anger management.

Except for limited circumstances, if the child is not returned to the parent's custody at the 18-month permanency reviewing hearing, the juvenile court is required to terminate reunification services and set a hearing to terminate parental rights. The court then determines whether reasonable services have been offered or provided to the parent or legal guardian, but the court's authority to set the hearing to terminate parental rights is not conditioned on whether reasonable services were provided. This bill would require, if the child is not returned to a parent or legal guardian at the permanency review hearing, and the court finds that reasonable services have not been provided, the court to extend reunification services for an additional six months.

Reunification services. When a child is removed from their parents' custody and it is determined by the courts and in speaking with the child's social worker that the child would ultimately benefit from being returned or reunited with the family, the court may order reunification services in order to address the underlying issues or needs of the family that led to the child's removal in the first place. Reunification services include, but are not limited to: family therapy, parenting classes, substance use disorder treatment, respite care, parent support groups, home visiting programs, and services deemed necessary in order to facilitate a child's reunification with their parents. For children under three years old, current law allows six months of reunification services; and for children over three years old, twelve months of reunification

services are to be offered. Extensions of services are available if the court determines that there is substantial probability that a child will return to their parents' custody within the extended time period. This bill would authorize the court to continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of their parent and safely maintained in the home within the extended period of time, or that reasonable services have not been provided to the parent or legal guardian. If the court extends the time period for family reunification services to be offered, the court would be required to specify the factual basis for its conclusion that reasonable services have not been provided to the parent or guardian.

In an effort to ensure that children are not unnecessarily subjected to contact from a parent who poses a threat to the health and safety of the child, if the court finds by clear and convincing evidence based on competent evidence from a mental health professional that extending the time period for reunification services would be detrimental to the child, the court is not required to extend reunification services for an additional six months. The court would be required to state either on the record or in writing, the reasons for its finding for the denial of further reunification services.

Author's statement: "[This bill] will ensure that parents are given a fair opportunity to reunify with their children by providing the parent with an additional six months of reunification services if courts have ruled that the social worker has failed to provide families with sufficient services during the last review period. California must meet its obligation to its families, and this proposal would ensure that families receive the support needed to stabilize and reunify."

Need for this bill: The provisions of this bill seek to remove barriers to family reunification by requiring a juvenile court to order six additional months of reunification services if the court finds that reasonable reunification services were not provided to them. To ensure that children who would not benefit from these additional services are not subjected to additional reunification efforts, the bill allows the court, if it finds that extending reunification services would be detrimental to the child, to decline to extend reunification services.

Equity Implications: Research has indicated that the majority of families involved with the child welfare system have incomes below the federal poverty line, are overrepresented by certain racial and ethnic groups, and are often single-parent households living in low-income neighborhoods. These families are dependent on the services they receive in order to stabilize their lives and when courts determine that social service agencies have deprived parents of the resources they are entitled to, there is no expectation to extend services beyond the 18 month timeline unless a parent is incarcerated, participating in a substance abuse program, or a parent is subject to an immigration hold. This bill will include families who were not given reasonable time to utilize services as a circumstance that will permit courts to grant an extension of services.

Double referral: This bill was heard in the Assembly Judiciary Committee on April 11, 2023, and passed out on an 11-0 vote.

RELATED AND PRIOR LEGISLATION:

AB 954 (Bryan) of the current legislative session, prohibits a parent or guardian's participation in court-ordered child welfare services from being considered to be noncompliant when there is evidence they are unable to pay for a service, or that payment for a service would create an undue financial hardship. *AB 954 is pending on the Assembly Floor.*

REGISTERED SUPPORT / OPPOSITION:

Support

February 14, 2023, version of the bill:

Children's Law Center of California (Co-Sponsor)

Dependency Legal Services (Co-Sponsor)

Root & Rebound (Co-Sponsor)

A New Way of Life Reentry Project

All or None of Us, Orange County

California Youth Connection (CYC)

Communities United for Restorative Youth Justice (CURYJ)

East Bay Family Defenders

John Burton Advocates for Youth

National Association of Social Workers, California Chapter

Public Counsel

Sister Warriors Freedom Coalition

Starting Over, INC.

The Children's Partnership

The Law Offices of Dale Wilson

One private citizen

Opposition

None on file

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