

Date of Hearing: August 3, 2020

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

SB 1341 (Hurtado) – As Amended July 27, 2020

SENATE VOTE: 40-0

SUBJECT: CalWORKs

SUMMARY: Permits a California Work Opportunity and Responsibility to Kids (CalWORKs) family whose child or children have been placed into foster care to continue receiving cash assistance while reunification efforts are ongoing within the child welfare system. Specifically, **this bill:**

- 1) Provides that the parent or parents who are considered living with a needy child or needy children for a period of up to 180 consecutive days of the needy child's or children's absence from the family assistance unit shall be eligible for CalWORKs aid payments, if the county has determined that the provision of such aid payments is necessary for reunification. Further provides that these changes only become operative if funds are appropriated in the annual Budget Act or another statute for this purpose.
- 2) Provides an exception to the county discontinuing CalWORKs payments for a child who has been placed in a foster care home if the provisions of this bill are met.
- 3) Makes technical and conforming changes.

EXISTING LAW:

- 1) Establishes in federal law the Temporary Assistance for Needy Families (TANF) program, which provides block grants to states to develop and implement their own state welfare-to-work programs designed to provide cash assistance and other supports and services to low-income families. (42 United States Code Section [USC] 601 et seq.)
- 2) Establishes the state's TANF program, the CalWORKs program. CalWORKs provides cash assistance and other supports and services to low-income families and is administered by the counties. (Welfare and Institutions Code Section [WIC] 11200 et seq.)
- 3) Prohibits a state to which a TANF grant is made from using any part of the grant to provide assistance to a family, unless the family includes a minor child who resides with the family or a pregnant individual. (42 USC 608(a)(1))
- 4) Prohibits a state from using TANF dollars to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the state, such period of not less than 30 and not more than 180 consecutive days as the state may provide for in the state plan. (42 USC 608(a)(10)(A))
- 5) Permits the state to establish good cause exceptions to the prohibition of payment of TANF funds for a family when a child is absent from the home as the state considers appropriate if such exceptions are provided for in the state plan. (42 USC 608(a)(10)(B))

- 6) Permits needy relatives, which includes natural or adoptive parents, the spouse of a natural or adoptive parent, and other needy caretaker relatives, who are living with a needy child or children, to receive TANF funds, as specified. (WIC 11203(a))
- 7) Requires that the parent or parents shall be considered living with the needy child or needy children for a period of up to 180 consecutive days of the needy child's or children's absence from the family assistance unit, and the parent or parents shall be eligible for CalWORKs specified services, if all of the following conditions are met:
 - a) The child has been removed from the parent or parents and placed in out-of-home care;
 - b) When the child was removed from the parent or parents, the family was receiving CalWORKs aid; and,
 - c) The county has determined that the provision of CalWORKs services are necessary for reunification, as specified. (WIC 11203(b)(1))
- 8) Prohibits the parent or parents described in WIC 11203(b) (1) from being eligible for any payment of CalWORKs aid, except for specified special needs benefit. (WIC 11203(b)(2))
- 9) Requires the Department of Social Services (CDSS) to revise its state TANF plan to permit a CalWORKs assistance unit to be eligible to for CalWORKs services while a child has been placed in out-of-home care, under specified circumstances, and to incorporate the good cause exception with respect to cases in which reunification occurs after 180 consecutive days from the date of the removal of the child or children from the home. (WIC 11203(c))
- 10) Requires, if a county is notified that a child for whom CalWORKs assistance is currently being paid has been placed in a foster care home, to discontinue aid to the child at the end of the month of placement. Further requires the county to discontinue the case if the remaining assistance unit members are not otherwise eligible. (WIC 11265.2 (g))
- 11) Establishes that the purpose of the dependency system is the maximum safety and protection of children who are currently being abused, neglected, or exploited. Provides that the focus of the system 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)
- 12) Requires 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 his or her family, if appropriate, at the initial hearing the juvenile court orders a child be removed from his or her parent or guardian due to abuse or neglect. (WIC 319(e))
- 13) Provides that children and families in the child welfare system should typically receive a full six months of reunification services if the child is under three years of age, and twelve months of services 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))
- 14) Provides that reunification services need not be provided if the court finds, by clear and convincing evidence, that specified conditions exist. (WIC 361.5(b))

- 15) Allows any party to petition the court to terminate reunification services early, and allows the court to terminate those services after finding, by clear and convincing evidence, that:
- a) Circumstances now exist that, had they previously existed, would have led the court to bypass or not order reunification services; or,
 - b) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including but not limited to the parent's or guardian's failure to visit the child, or their failure to participate regularly and make substantive progress in a court-ordered treatment plan. (WIC 388(c))

FISCAL EFFECT: According to the Senate Appropriations Committee on June 18, 2020, this bill may result in cost pressures of annual, ongoing costs of at least \$4 million General Fund per 1,000 newly eligible cases. Current actual caseload is limited due to data being embedded in a variety of different aid codes. As such, there may be a range in fiscal estimate that could be as high as \$21 million for 5,000 cases. The average CalWORKs assistance payment per month in FY 2020-21 is \$714.47 and could be scaled to the number of newly eligible cases.

COMMENTS:

California Work Opportunity and Responsibility to Kids: The CalWORKs program, which implements the federal TANF program, provides eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. CDSS is charged with program supervision at the state level, and counties administer the caseloads at the local level. CalWORKs is funded largely through the federal TANF block grant and state maintenance-of-effort contributions. Families participating in CalWORKs have access to a range of services that can include child care and services aimed at addressing mental health needs, substance use disorders, experiences of domestic violence, and learning disabilities, among other issues. The average monthly cash grant for a family of three on CalWORKs (one parent and two children) in 2019-20 was \$682 and the maximum monthly grant if the family has no other income and lives in a high-cost county was \$785. However, many families earn some income and do not qualify for the maximum grant amount. According to recent data from CDSS, approximately 423,000 families rely on CalWORKs.

Child Welfare Services: The purpose of California's Child Welfare Services (CWS) system is to protect children from abuse and neglect and provide for their health and safety. When children are identified as being at risk of abuse, neglect, or abandonment, child protective services is responsible for investigating the report. If the abuse or neglect allegation is substantiated, it is then determined whether it is in the best interest of the youth to remain in their parent's custody or be placed within the CWS system. If it is in the best interest of the child to be removed from their parent's custody, the child is placed in the CWS system. The juvenile court holds legal jurisdiction and a social worker is appointed by the CWS system to ensure that the needs of the youth are met. Through this system, there are multiple opportunities for the custody of the child, or their placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child's social worker, to help provide the best possible services to the child. The CWS system seeks to help children who have been removed from their homes reunify with their parents or guardians, whenever appropriate. However, the court may determine that an alternate permanent placement is more fitting and give preference to relatives or nonrelative extended family members. There are currently nearly 60,000 children and youth in California's CWS system.

Coordination of families in CalWORKs and CWS: According to CDSS, in California, most counties include a significant number of children and families involved in both the CalWORKs and CWS systems. Parents or caretakers must navigate between two different systems, which often have conflicting requirements and timeframes. Linkages is a program in CalWORKs that coordinates CWS, Family Maintenance or Family Reunification (FR) plans, and CalWORKs Welfare-to-Work plans for families receiving services from both systems. The program keeps the children safe by helping families to achieve self-sufficiency, stability, and well-being through coordinated, family-focused partnerships.

AB 429 (Aroner), Chapter 111, Statutes of 2001, permitted the continuation of CalWORKs services to parents after a child has been removed from the home and is receiving out-of-home care. These services include Welfare-to-Work activities like mental health and substance abuse treatment or any other activities allowable under CalWORKs. These CalWORKs-funded reunification services are part of a FR plan established by the county and may continue for 180 days during which the child is considered temporarily absent from the home. The FR services may be extended beyond 180 days for good cause and remain in place until termination of the plan.

In order for parents whose child is temporarily absent from the home to continue receiving CalWORKs services, the parent or parents must meet all of the following conditions:

- 1) The child has been removed from the parent and placed in out-of-home care, which for these cases, is defined as a temporary care situation and one that requires a reunification plan. This does not include cases where the child was removed but the county does not recommend family reunification services;
- 2) The assistance unit was receiving CalWORKs assistance when the child was removed; and,
- 3) The county has determined that the provision of CalWORKs services is necessary for family reunification.

While AB 429 allowed parents to remain eligible for CalWORKs services, it did not, however, permit families to continue receiving cash aid in cases where all children have been removed from the home or the remaining household members become income ineligible for a cash grant. Additionally, these parents are not eligible for CalWORKs special needs payments, including recurring and nonrecurring special needs, such as homeless assistance, because these payments are considered cash assistance.

According to CDSS, about 12,500 children were in CalWORKs FR families between October 1, 2018, and September 30, 2019; however, the number families receiving CalWORKs funded services, as permitted by AB 429 was not immediately available.

Need for this bill: When a child is removed from a family that is receiving CalWORKs aid, the family may still be eligible to receive certain CalWORKs services, but is no longer eligible to receive cash aid. Removing cash assistance from a family that is already below the poverty line makes reunification even more difficult to achieve, can destabilize the family, and can ultimately result in the family becoming homeless. While a child welfare agency cannot remove a child from a family due solely to homelessness, a judge cannot reunify a child to an unsheltered parent. This bill will allow these families to continue receiving cash aid while active reunification efforts are ongoing.

According to the author, “Current CalWORKs policy requires counties to cut cash assistance for a CalWORKs family when a child is removed from the home by the county child welfare department. This practice further destabilizes families that are already living in poverty and experiencing a crisis. It also increases the possibility of the family becoming homeless. [This bill] will enhance the likelihood that foster children will reunify with their parents by allowing CalWORKs families whose children have been placed into foster care to continue receiving monthly cash assistance while active reunification efforts are ongoing in the child welfare system.”

RELATED AND PRIOR LEGISLATION:

SB 236 (Maienschein), Chapter 545, Statutes of 2017, made CalWORKs temporary shelter assistance available to homeless families who would be eligible but for the fact that the families’ child or children have been removed from the family unit by county child welfare services, under certain specific circumstances and for a limited period of time.

AB 429 (Aroner), Chapter 111, Statutes of 2001, permitted the continuation of CalWORKs services to parents after a child has been removed from the home and is receiving out-of-home care.

SB 249 (Chesbro) of 2001 would have allowed counties to continue CalWORKs services to the family of a child who is receiving child protective services, for up to 180 days during which the child is not residing at home. This measure would have only authorized this extension when the county determines such eligibility is necessary for family reunification. SB 249 was held on the Senate Appropriations Committee suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

County Welfare Directors Association of California (CWDA) (Sponsor)
Alliance for Children's Rights
Los Angeles Dependency Lawyers, INC.
Western Center on Law & Poverty, INC.

Opposition

None on file

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