

Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Lisa Calderon, Chair
SB 354 (Skinner) – As Amended June 23, 2021

SENATE VOTE: 38-0

SUBJECT: Foster youth: relative placement

SUMMARY: Adopts changes to the criminal background check process during the resource family approval (RFA) process for relatives and non-relative extended family members (NREFMs) of children placed in the child welfare system; permits the court to authorize placement of children with relatives and NREFMs in certain circumstances, regardless of the status of any criminal exemption or RFA; and, requires, no later than January 1, 2023, the California Child Welfare Council (Council) to submit a report to the Legislature related to criminal records exemptions and RFA, among other changes, as specified. Specifically, **this bill:**

- 1) Requires, no later than January 1, 2023, the Council to submit a report to the Legislature that includes:
 - a) The number of resource family applicants who applied for RFA to care for a relative child and who were denied a criminal records exemption, as specified by certain provisions of this bill;
 - b) The number of resource family applicants who applied for RFA to care for a relative child and who were ineligible for a criminal records exemption, as specified by certain provisions of this bill; and,
 - c) The total number of administrative appeals filed by resource family applicants, as specified, in response to the denial of a criminal records exemption or a determination of ineligibility for a criminal records exemption, as well as the number of those appeals in which the denial or determination of the California Department of Social Services (CDSS) or another approving entity was upheld.
- 2) Requires the Council to stratify the collected data by a variety of demographic characteristics, including, at a minimum, by race and income level, as well as by county, as specified.
- 3) Repeals, as of January 1, 2026, the requirement that the Council submit a report to the Legislature.
- 4) Expands the list of crimes for which CDSS may grant a criminal records exemption to a relative or NREFM to include sexual battery, willfully causing harm to a child, and mayhem, among others, as specified, and, further, permits CDSS or another approving entity to grant an exemption for a relative or a NREFM, and any other adult living in the home who has been convicted of these offenses if:
 - a) The applicant is seeking placement of a specific child or children with whom the applicant has a family-like relationship;

- b) The applicant or other adult living in the home is of present good character necessary to justify granting the exemption, as defined by certain provisions of this bill;
 - c) Placement with the relative or NREFM would not pose a health and safety risk to the child; and,
 - d) The applicant or other adult in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography.
- 5) Declares that exemptions to crimes that were previously non-exemptible, as proposed by the provisions of this bill, only apply to the placement of a specific child or children, and, further, prohibits the exemption from being transferable for the placement of another child or children, as specified.
- 6) Makes changes to the criteria upon which CDSS may grant an exemption from disqualification to a foster care provider, resource family applicant, or any individual subject to the background check requirements by reducing:
- a) For any misdemeanor conviction, the lookback period from five years to three years; and,
 - b) For any felony conviction, the lookback period from seven years to five years, as specified.
- 7) Expands the list of criteria that CDSS is required to consider when granting an exemption for certain crimes to include:
- a) Other evidence of the applicant's or person's willingness and ability to provide a loving, safe, and stable home for children; and,
 - b) The wishes of the child, if the person is seeking approval as a resource family to provide care to a specific relative child or children, as well as the strength of the existing bond between the person and the child or children.
- 8) Expands the circumstances for which CDSS or another approving entity is required to grant an exemption to include instances where the person has been convicted of a previously non-exemptible offense, as specified by the provisions of this bill, that was subsequently dismissed or for which the convicted person obtained a certificate of rehabilitation or pardon.
- 9) Requires, if the sole issue preventing an emergency placement of a child with a relative or NREFM is a lack of resources, including, but not limited to, physical items, such as a cribs and car seats, the placing agency to use reasonable efforts to assist the relative or NREFM in obtaining the necessary items within existing available resources.
- 10) Require CDSS to work with counties and stakeholders to issue guidance regarding reasonable efforts requirements.
- 11) Requires, after reviewing the placement recommendation of the county welfare department, the court to use its independent judgment in evaluating whether to order a temporary placement of a child in the home of a relative or NREFM. Further, permits the court to order the temporary placement regardless of the status of any criminal exemption or RFA if:

- a) The court finds that the placement does not pose a risk to the health and safety of the child; and,
 - b) The relative, extended family member, NREFM, or other adult living in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography.
- 12) Permits, when determining the placement of a child who is adjudged a dependent of the court, if the court determines that placement with a relative or NREFM does not pose a risk to the health and safety of the child, and the relative, NREFM, or other adult living in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography, the court to place the child in the home of the relative or NREFM, regardless of the status of any criminal exemption or resource family approval.
- 13) Requires, in instances where the county welfare department has considered placement with a relative, as specified in current law, and after reviewing the placement recommendation of the county welfare department, the court to use its independent judgment in evaluating whether to order the placement of a child in the home of a relative, and, further, permits the court to order a temporary placement regardless of the status of any criminal exemption or resource family approval if the court finds that the placement does not pose a risk to the health and safety of the child and the relative or other adult living in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography.
- 14) Permits the emergency placement of a child to be made in instances where information obtained through the California Law Enforcement Telecommunications System (CLETS) indicates that the individual has been convicted of certain crimes, and the court has ordered the placement, or an exemption has been granted, as specified.
- 15) Permits the court to order placement of a child with a NREFM regardless of the status of any criminal exemption or resource family approval if the court finds the placement does not pose a risk to the health and safety of the child and the NREFM or other adult living in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography.
- 16) Expands the definition of “approved relative caregiver” as it pertains to the Approved Relative Caregiver Funding Program to include a relative or NREFM with whom a child has been ordered to be placed by the court, unless the child has been temporarily placed with the relative or NREFM as specified by the provisions of the bill, regardless of the status of any criminal exemption or resource family approval.
- 17) Expands eligibility for emergency caregiver payments, as defined in current law, to include caregivers with whom a child is placed on an emergency basis pursuant to the provisions of this bill.
- 18) Makes the following changes to the RFA process:

- a) Permits, on a case-by-case basis, the requirement that a resource family demonstrate the financial ability within the household to ensure the stability and financial security of the family to be waived for relative and NREFM.
 - b) Deletes the declaration that emergency placement of a child or placement with a resource family applicant does not entitle an applicant approval as a resource family, and instead, prohibits, if a relative or NREFM has a family-like relationship with a child or a child is already placed in the home of a relative or NREFM, resource family approval from denied, unless the county has evidence that is admissible in an administrative hearing to establish that the placement poses a risk to the health and safety of the child.
 - c) Permits a resource family home to be approved if the applicant is a relative or NREFM and has been granted a criminal records exemption, as permitted by the provisions of this bill, and, further, requires any resource family home approval based on these exemptions be limited to a child-specific approval, as specified.
 - d) Prohibits the criminal history of an applicant or other adults living in the home from being used as the sole basis to deny the approval if the applicant is a relative or NREFM unless the county has evidence that is admissible in an administrative hearing to establish that the placement may pose a risk to the health and safety of a child, and, further, requires, if the applicant or another adult in the home has been arrested for certain offenses, as specified, the applicant or other adult in the home to bear the burden of showing that the placement will not pose a risk to the health and safety of the child.
 - e) Prohibits a resource family home approval from being granted if the applicant or other adult in the home has a felony conviction within the last five years for child abuse or neglect, spousal rape, rape, sexual assault, homicide, or any other crime against a child, including child pornography.
 - f) Requires, in instances where a county approves a resource family to care for a specific child, as permitted by current law, child-specific approval to include all approvals based on an exemption to a previously non-exemptible crime, as permitted by the provisions of this bill.
- 19) Declares that no appropriation pursuant to current law be made for the provisions of this bill.
- 20) Makes technical and conforming 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) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, 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) States the intent of the Legislature to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with his or her biological family whenever possible, or to provide a permanent placement alternative, such as adoption or guardianship. (WIC 16000)
- 4) Establishes the "Child Welfare Council" to serve as an advisory body responsible for improving the collaboration and processes of the multiple agencies and the courts that serve the children and youth in the child welfare and foster care systems. (WIC 16540 *et seq.*)
- 5) Prohibits, for a foster care provider applicant, resource family applicant, or prospective respite care provider, a criminal records exemption from being granted if the individual subject to the background check requirements has a conviction for certain offenses, including: sexual battery; willfully causing harm to a child; or, a felony conviction, within the last five years, for physical assault, battery, or a drug- or alcohol-related offense, among others, as specified in current law. (Health and Safety Code Section [HSC] 1522(g)(2)(A))
- 6) Permits CDSS to grant an exemption from disqualification to a foster care provider, resource family applicant, or any individual subject to the background check requirements if CDSS or other approving entity has substantial and convincing evidence to support a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption and the conviction is for one of the following offenses: any misdemeanor conviction within the last five years that is not otherwise non-exemptible; or, any felony conviction within the last seven years that is not otherwise non-exemptible, as specified. (HSC 1522(g)(2)(B))
- 7) Enumerates the criteria that CDSS or other approving entity is required to consider when granting a criminal records exemption, which includes, but is not limited to: the nature of the crime or crimes; the period of time since the crime was committed; and, the number of offenses, among others, as specified. (HSC 1522(g)(2)(C))
- 8) Requires CDSS or other approving entity to grant an exemption from disqualification to a foster care provider applicant, resource family applicant, or any person subject to the background check requirements who has been convicted of a crime that is not otherwise enumerated in current law, as specified, if the individual's state and federal criminal history information received from the Department of Justice independently supports a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of good character necessary to justify the granting of an exemption. (HSC 1522(g)(2)(D))
- 9) Requires, when placing a child in the home of a relative or extended family member, or NREFM on a temporary basis, the court to consider the recommendations of the social worker based on the assessment required by current law, including the results of a criminal records check and prior child abuse allegations, if any, before ordering that the child be placed with a relative or NREFM. (WIC 319(h)(3))
- 10) Permits the social worker to place a child who has been adjudged a dependent of the court in certain placements, including: the home of a noncustodial parent, regardless of the parent's immigration status; the approved home of a relative, or the home of a relative who has been assessed and is pending approval; or, the approved home of a NREFM or the home of a NREFM who has been assessed and is pending approval, among others, as specified. (WIC 361.2(e))

- 11) Requires, in any case in which a child is removed from the physical custody of their parents, preferential consideration be given to a request by a relative of the child for placement of the child with the relative, regardless of the relative's immigration status. (WIC 361.3(a))
- 12) Prohibits placement of a child if information obtained through the CLETS indicates that the person has been convicted of certain offenses unless a criminal records exemption has been granted, as specified. (WIC 361.4(b))
- 13) Establishes the "Approved Relative Caregiver Funding Program" for the purpose of making the amount paid to approved relative caregivers for the in-home care of children and nonminor dependents (NMDs) placed with them who are ineligible for Aid to Families with Dependent Children-Foster Care (AFDC-FC) payments equal to the amount paid on behalf of children and NMDs who are eligible for AFDC-FC payments. (WIC 11461.3(a))
- 14) Requires, for placements made on or after July 1, 2018, each county to provide a payment equivalent to the resource family basic rate level of the home-based family care rate structure to an emergency caregiver on behalf of a child or NMD placed in the home of the caregiver if certain criteria are met, as specified. (WIC 11461.36)
- 15) Requires a resource family to demonstrate a number of factors, including, among others: the financial ability within the household to ensure the stability and financial security of the family; an ability and willingness to provide a family setting that promotes normal childhood experiences that serves the needs of the child; and, an understanding of the role of the individual or family as a resource family and the capacity to work cooperatively with the agency and other service providers in implementing the child's case plan. (WIC 16519.5(c))
- 16) Establishes that there is no fundamental right to approval as a resource family, and, further, establishes that emergency placement of a child or placement with a resource family applicant does not entitle an applicant to approval as a resource family. (WIC 16519.5(c)(3))
- 17) Prohibits, if the criminal records check as part of the family home assessment indicates that the person has been convicted of a non-exemptible offense, the home from being approved. (WIC 16519.5(d))

FISCAL EFFECT: According the Senate Appropriations Committee on May 20, 2021:

- CDSS report staff costs of \$713,000 Fiscal Year 2021-2022 and Ongoing Annual Costs - \$687,000 (General Fund).
- County social workers increased staff time to investigate and prepare for hearings and other potential mandated local costs. Following 2011 realignment, state-mandated local costs are not reimbursable, but instead must be funded by the state pursuant to Proposition 30.
- Juvenile Dependency Court—Unknown, workload cost pressures to the courts to for increased hearing time to make the court finding on risk. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. For illustrative purposes, the Governor's proposed 2021-2022 budget would appropriate \$118.3 million from the General Fund to backfill continued

reduction in fine and fee revenue for trial court operations. (General Fund-Trial Court Trust Fund)

COMMENTS:

Child welfare services (CWS): The goal of California's CWS system is ultimately to protect children from abuse and neglect, and provide for their health, safety, and overall wellbeing. When a child is identified as being at risk of abuse or neglect, county juvenile courts hold legal jurisdiction and the CWS system appoints a social worker in order to ensure the needs of the child are met. Through the CWS system, multiple opportunities arise for the judicial system to evaluate, review, and determine the custody of the child, or determine the best out-of-home placement for the youth. Together, the judicial system and the child's social worker work to ensure that the best possible services are provided to the child. The CWS system, when appropriate, also works to reunite children who have been removed from the custody of their parents or guardians with individuals they consider to be family in order to maintain familial bonds wherever possible. As of January 1, 2021, there were 59,716 youth placed in California's CWS system.

Continuum of Care Reform (CCR): In recent years, California has enacted legislation, known as CCR, to improve placement and treatment options for youth in foster care. AB 403 (Stone), Chapter 773, Statutes of 2015, sponsored by CDSS, sought to improve outcomes for children and youth served by the CWS system by working to ensure that foster youth have their day-to-day physical, mental, and emotional needs met, that they have the opportunity to grow up in permanent and supportive homes, and have the opportunities necessary to become self-sufficient and successful adults. CCR also sought to reduce the use of congregate care as a frequently used placement option for youth, as data have demonstrated that youth placed in congregate care settings experience poorer outcomes than youth placed in family settings. Subsequent legislation to further facilitate implementation of CCR efforts include AB 1997 (Stone), Chapter 612, Statutes of 2016, AB 404 (Stone), Chapter 732, Statutes of 2017, AB 1930 (Stone), Chapter 910, Statutes of 2018, AB 819 (Stone), Chapter 777, Statutes of 2019, and AB 2944 (Stone), Chapter 104, Statutes of 2020.

Resource Family Approval: The RFA process is a unified, family-friendly, and child-centered process that combines elements of foster parent licensing, relative approval, and adoption/guardianship approval processes. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families, including relatives, in order to ensure that caregivers are equipped to best meet the needs of youth in foster care. RFA is also a route to direct permanency for caregivers who wish to adopt or be guardians of youth in care, as the RFA process includes elements required by both the adoption and guardianship processes.

Prior to approval as a resource family, applicants must complete 12 hours of pre-approval caregiver training to ensure caregivers have the necessary knowledge and skills to provide adequate care to foster youth. The training often includes: an overview of the CWS and probation systems; the effects of trauma, including grief, loss, and abuse and neglect, on a child's development and behavior; health issues in foster care; the rights of a child in foster care; and the cultural needs of children, among others. Current law also requires approved resource families to complete a minimum of eight hours of caregiver training annually to ensure resource families are equipped on an ongoing basis to provide for the needs of youth in their care. Annual caregiver training includes topics such as: health issues in foster care; promoting normal childhood

experiences; permanence; well-being; and the cultural and education needs of youth, among other topics.

Emphasis on placement with relatives: It has long been the goal of the CWS system to preserve familial ties whenever possible. Under certain circumstances, family maintenance services are provided to families in order to prevent the removal of children from their parents' home, including family therapy, parenting classes, or substance use treatment. However, in instances when a youth is removed from the custody of their parents and placed in the CWS system, county social workers are required to locate any relatives or NREFMs who may serve as caregivers to the youth. When a relative agrees to become a caregiver, it is often done on an emergency basis; as such, these emergency caregivers are not yet approved as resource families, and therefore do not receive many of the supports and services afforded to caregivers approved through the RFA process, including foster care payments, which help provide for the needs of foster youth. Still, in recent years, funding has been allocated to alleviate financial strains on relatives who care for children prior to being approved as resource families; in 2018, AB 1811 (Committee on Budget), Chapter 35, Statutes of 2018, permitted, for fiscal year 2019-20 and beyond, payments to be made to emergency caregivers through the Temporary Assistance to Needy Families Emergency Assistance Program. Of the 59,716 youth in the CWS system on January 1, 2021, 34% (20,405) youth were placed with relatives or NREFMs.

Criminal background checks: Certain individuals, including licensees, adult residents, certain volunteers, and employees of community care facilities who have contact with individuals in the facilities are required by law to undergo a criminal background check and, if a criminal history exists, obtain a criminal record clearance or exemption. Resource family applicants are among those required to submit to a criminal background check. Background checks require individuals to submit fingerprints, which are used by the California Department of Justice (DOJ) to search for any criminal record history. If a person does not have a criminal history, DOJ forwards a clearance notice to the applicant and licensee of a facility, as well as to the CDSS Community Care Licensing Division's Criminal Background Check Bureau (CBCB). If an applicant does have a criminal history, DOJ sends a record transcript to CBCB, detailing the person's arrests and convictions. CBCB is responsible for verifying whether the individual is eligible for a criminal background exemption or if the individual has committed a crime for which an exemption may not be offered. An exemption is required when an individual has been convicted of any crime other than a minor traffic violation, and crimes for which an exemption cannot be granted (called non-exemptible crimes) include convictions for murder, kidnapping, possession of child pornography, sexual exploitation of a child, elder or dependent abuse, and arson, among others. When considering whether to grant an exemption for qualifying crimes, CDSS may use one of two methods:

Standard exemption:

- May be granted if CDSS possesses substantial and convincing evidence to support a reasonable belief that the individual is rehabilitated and of present good character necessary to justify the granting of an exemption;
- Must be sought by the individual, CDSS must notify the individual of their need to complete the standard exemption process, and relevant information, including character references, verification of completed court ordered trainings, classes, treatment, and counseling, among others, must be compiled and evaluated;

- Is used if the resource family applicant's conviction is not a non-exemptible crime and meets certain criteria;
- Requires CDSS to consider all reasonable available information, including: the nature of the crime or crimes involved, the period of time since the crime was committed, and the number of offenses, among others.

Simplified exemption:

- Can be used for individuals whose criminal history does not contain a non-exemptible offense and does not meet the criteria necessary to require a standard exemption;
- Includes only an examination of the convicted persons' record of arrests and prosecutions (RAP) sheet and any written or verbal self-disclosures received by CDSS; and,
- Does not require a response from the individual and/or the resource family.

Additionally, while an individual may qualify for the simplified exemption process, CDSS has the discretion to require the more robust, standard exemption process if health and safety concerns exist.

Because it is the goal of the CWS system to maintain familial bonds and place children with relatives whenever possible and safe to do so, SB 213 (Mitchell), Chapter 733, Statutes of 2017, adopted changes that streamlined the criminal background check process for prospective foster and adoptive parents. Specifically, SB 213 established a list of non-exemptible crimes, a list of crimes for which an exemption may be granted, and a list of crimes for which exemptions must be granted, absent a reasonable belief that the person is not of good character at present. By adopting SB 213, California both established the simplified exemption process, and conformed state law to certain requirements under federal law as they were adopted by the Adam Walsh Act of 2006, which tied federal funding to the requirement that criminal background checks on prospective foster and adoptive parents be conducted by requiring states to run fingerprint-based checks through a national crime information database.

Current law, for foster care provider applicants, resource family applicants, or prospective respite care providers, delineates the crimes for which an exemption may or may not be granted as follows:

- *Category A: Non-exemptible, as defined in HSC 1522(g)(2)(A):* Among others, felony convictions for: child abuse or neglect; spousal abuse; elder abuse; crimes against a child (including pornography); a crime involving violence (including rape, sexual assault, homicide, but not including physical assault and battery); and, a felony conviction within the past five years for physical assault, battery, or drug- or alcohol-related offense.
- *Category B: Exemptible upon review, as defined in HSC 1522(g)(2)(B):* Offenses that are not otherwise non-exemptible under Category A, including: any misdemeanor conviction within the last five years; and, any felony conviction within the last seven years.

When considering whether to grant an exemption for these crimes, current law enumerates criteria that CDSS must consider, including: the nature of the crime, the number of offenses,

the circumstances surrounding the commission of the crime indicating the likelihood of future criminal activity; and character references, among others.

- *Category C: Presumed exemptible, as defined in HSC 1522(g)(2)(D):* Offenses not covered by categories A or B may be presumed exemptible.

In re C.P., 47 Cal. App. 5th 17, 2020: On March 26, 2020, the California Fourth District Court of Appeals ruled on a case involving placement of a child in the CWS system with his grandparents. Specifically, a child was removed from his mother's custody in May 2017 after being sexually abused by a maternal uncle; at the time of removal, the child lived with his mother and uncle in the home of the child's grandparents. The parental rights of the mother were subsequently terminated when the mother failed to reunify with the child, and the grandparents sought approval as a resource family. RFA was denied by the juvenile court, however, as the grandfather had a conviction for a non-exemptible crime (willfully inflicting upon a child any cruel or inhuman corporal punishment pursuant to Penal Code Section 273d) from 1991. The grandfather demonstrated the steps he had taken to be rehabilitated, including anger management courses and counseling, and the child expressed a desire to live with his grandparents. Ultimately, the Court of Appeals ruled that the absolute statutory bar on the placement of the child with his grandparents, with whom the child had a pre-existing, established relationship, was unconstitutional if the grandparents could establish that they have a parental relationship with the child, not just a grandparental relationship.

The provisions of this bill seek to implement the Court of Appeals' decision by permitting, but not requiring, CDSS to grant exemptions to non-exemptible crimes for a relative or NREFM, and any other adult living in the home, if:

- The applicant is seeking placement of a specific child or children with whom the applicant has a family-like relationship;
- The applicant or other adult living in the home is of present good character necessary to justify granting the exemption;
- Placement with the relative or NREFM would not pose a health and safety risk to a child; and,
- The applicant or other adult living in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography.

The provisions of this bill would also declare that any exemption granted by CDSS for a non-exemptible crime applies to the placement of a specific child/children for which placement is being considered, and would also declare that the exemption is not transferable to the placement of a different child/children. Additionally, this bill would reduce the length of time between conviction and application for RFA during which the simplified exemption process may be applied by reducing the lookback period for qualifying misdemeanor and felony convictions from five years to three years, and from seven years to five years, respectively.

It should be noted that the provisions of this bill maintain CDSS' authority to ultimately determine whether to grant an exemption for a non-exemptible crime. Additionally, this bill does

not make changes to the appeals process that permits an individual to dispute a decision made by CDSS.

Need for this bill: The provisions of this bill seek to build upon changes made to California’s CWS system through CCR, RFA, and previous legislation. This bill also seeks to further the intent of California law, as well as the Appellate Court decision in *In re C.P.*, to maintain familial bonds and place children with relatives whenever it is possible and safe to do so. Specifically, this bill would require the California Child Welfare Council to submit a report to the Legislature no later than January 1, 2023, detailing information and data related to criminal records exemptions and the RFA process. This bill would also permit CDSS, for relatives or NREFMs or any other adult living in the home, to grant an exemption to non-exemptible crimes if certain criteria is met. Additionally, this bill would require the court, in certain circumstances, to use its independent judgment in evaluating whether to order temporary or emergency placements of children with relatives or NREFMs regardless of the status of any criminal exemption or resource family approval if the court makes certain health and safety-related findings. This bill would also prohibit the denial of RFA if a relative or NREFM has a family-like relationship with a child, or a child is already placed in the home of the relative or NREFM, unless the county has evidence to establish that the placement poses a risk to the child’s health and safety.

According to the author, “The State of California has over 60,000 children in the foster care system, and these children are disproportionately from Black and brown families. According to the Child Welfare Indicators Project, Black and Latinx children are 2.8 and 1.22 times more likely to have contact with the foster care system than their white counterparts. This, coupled with a history of mass incarceration in the United States, has led to children of system-impacted families facing many barriers to being reunited with their parents or relatives.

“According to research highlighted by Children Need Amazing Parents (CHAMP), children in kinship care experience better outcomes in regards to behavior problems, adaptive behaviors, psychiatric disorders, well-being, etc., than other children in foster care. Since 2015, the state has worked towards implementing CCR recommendations, emphasizing home-based family placements of foster children and reducing the use of congregate care.

“[This bill] seeks to remove barriers to children being placed with family members instead of a non-family caregiver or in congregate care by ensuring that any existing relationship between a relative/NREFM caregiver and a child is considered in decisions regarding home approval and placement. Additionally, this bill addresses obstacles causing placement delays or denials for prospective relative/NREFM caregivers by: waiving income requirements when appropriate and supporting relatives in accessing necessary supplies, such as cribs, car seats, and booster seats; broadening the list of convictions that qualify for exemptions and simplified exemptions; clarifying the court shall use its independent judgment in placement decisions; and, requiring the Child Welfare council to provide a report to the Legislature detailing the impact of criminal history on RFA.”

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

PRIOR AND RELATED LEGISLATION:

AB 1811 (Committee on Budget), Chapter 35, Statutes of 2018, established that, for 2019-20, emergency caregivers may receive funding at the time of placement and prior to completion of the RFA process.

AB 1083 (Mitchell), Chapter 935, Statutes of 2018, made a number of changes to the RFA process for foster family homes that have not yet been approved as resource family homes.

SB 213 (Mitchell), Chapter 733, Statutes of 2017, streamlined the background check process for prospective and adoptive parents by establishing a list of non-exemptible crimes, a list of crimes for which an exemption may be granted, and a list of crimes for which exemptions must be granted, absent a reasonable belief that the person is not of good character at present.

SB 1201 (Mitchell) of 2016, would have made changes to the criminal records exemption procedures for relatives, nonrelative foster or resource families. SB 1201 was held on the Senate Appropriations Committee suspense file.

SB 942 (Liu) of 2016, would have required that criminal records checks be conducted within a specified timeframe, and would have required various hearings if the county fails to meet those time frames, and would have authorized placement of a child in a home in which an exemption is pending under circumstances in which the county is found to have abused its discretion. SB 942 was held on the Assembly Appropriations suspense file.

SB 316 (Mitchell) of 2016, would have made changes to the criminal records exemption procedures for relatives, nonrelative foster or resource families. SB 316 was withdrawn from the Assembly Human Services Committee and re-referred to the Assembly Rules Committee pursuant to Assembly Rule 96.

AB 403 (Stone), Chapter 773, Statutes of 2015, implemented Continuum of Care Reform recommendations to better serve children and youth in California's child welfare services system.

REGISTERED SUPPORT / OPPOSITION:

Support

A New Way of Life Re-entry Project (Co-Sponsor)
Alliance for Children's Rights (Co-Sponsor)
County Welfare Directors Association of California (CWDA) (Co-Sponsor)
Legal Services for Prisoner With Children (Co-Sponsor)
Underground Scholars Initiative at UC Riverside (Co-Sponsor)
ACLU California Action
All of Us or None
Anti-Recidivism Coalition
Blameless and Forever Free Ministries
California Coalition for Women Prisoners
California Families Rise
California for Safety and Justice
Californians United for a Responsible Budget

CASA of Los Angeles
Children's Law Center of California
Communities United for Restorative Youth Justice (CURYJ)
Community Legal Services in East Palo Alto
East Bay Community Law Center
Fresno Barrios Unidos
Hillsides
Improve Your Tomorrow, INC.
Initiate Justice
Inland Empire Fair Chance Coalition
Judicial Council of California
Junior League of San Diego
Los Angeles Dependency Lawyers, INC.
MILPA (Motivating Individual Leadership for Public Advancement)
Public Counsel
Re:Store Justice
Religious Coalition for Reproductive Choice California
Root & Rebound
Rubicon Programs
San Francisco District Attorney's Office
San Francisco Human Services Agency
Sigma Beta Xi, INC. (sbx Youth and Family Services)
Starting Over, INC.
SURJ Contra Costa County CA
The Harriett Buhai Center for Family Law
Vista Del Mar Child and Family Services
Women's Foundation California
One private citizen

Opposition

None on file

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