

Date of Hearing: June 6, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

SB 824 (Ashby) – As Amended April 11, 2023

SENATE VOTE: 40-0

SUBJECT: Foster care

SUMMARY: Expands the authority of the California Department of Social Services (CDSS) to grant criminal record exemptions during the resource family approval (RFA) process to include nonrelative extended family members (NREFMs). Allows youth who were subject to an order for placement with a relative, regardless of the status of any criminal record exemption or RFA, to be eligible to receive aid in the form of state-funded Kinship Guardianship Assistance Payment Program (Kin-GAP). Adds the home of a NREFM to the placements that would allow a youth to be eligible for Aid to Families with Dependent Children-Foster Care (AFDC-FC), and expands eligibility for the Adoption Assistance Program (AAP). Specifically, **this bill:**

- 1) Expands CDSS's existing authority, for the sole purpose of approving a home as part of the RFA process, to grant an exemption for a NREFM, or for an extended family member for Indian child custody proceeding, who has been convicted of a specified offense under the following circumstances:
 - a) If the applicant is seeking placement of a specific child or children with whom the applicant has a familial or mentoring relationship,
 - b) The applicant or other adult living in the home is of present good character necessary to justify granting the exemption, and,
 - c) 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.
- 2) Provides that an exemption granted as described in 1) shall only be valid for purposes of the applicant's child-specific RFA, or tribally approved home, and shall not be transferrable to any other setting.
- 3) Permits the court to authorize placement of a youth in the home of a NREFM, regardless of the status of any criminal record exemption or RFA if the court finds that the placement does not pose a risk to the health and safety of the child, under the following conditions:
 - a) If the youth is not released from custody and the court has ordered the temporary placement for a period not to exceed 15 judicial days;
 - b) If the court orders removal, the social worker to place the youth in the home of a NREFM in which the juvenile court has authorized placement; and,
 - c) Notwithstanding the California Law Enforcement Telecommunications System (CLETS) information, and the placement recommendation of the county placing agency or county

probation agency, if the court authorizes the placement of a youth on an emergency basis in the home of a NREFM.

- 4) Adds to the conditions under which aid in the form of state-funded Kin-GAP is required to be provided on behalf of any child under 18 years of age and to any eligible youth under 19 years of age, to include a youth who was subject to an order for placement with a relative regardless of the status of any criminal record exemption or RFA.
- 5) Adds to the placements that would allow a youth to be eligible for AFDC-FC, the home of a NREFM that has been authorized by the juvenile court and is ineligible for emergency caregiver funding due to the denial of RFA. Specifies that unless otherwise authorized by federal law, federal financial participation is not available for these placements, as described.
- 6) Adds to the conditions under which the county with payment responsibility is required to pay an approved relative caregiver a per-child, per-month rate at the youth's assessed level of care in return for the care and supervision of the youth to include youth who are not eligible for AFDC-FC while placed with the relative caregiver because the placement was authorized by the juvenile court.
- 7) Expands eligibility for AAP to include the prospective adoptive parent or any adult living in the prospective adoptive home who has completed the criminal background check requirements for RFA, or the child was subject to an order for placement with a relative, NREFM, or extended family member, regardless of the status of any criminal record exemption or RFA or tribally approved home approval.
- 8) Requires, when child-specific approval is granted to a NREFM or extended family member who has received a criminal records exemption, the child's placement to be funded and prohibits the relative, NREFM, or extended family member from being eligible for federal financial participation while the child is placed with them.
- 9) Extends all of the above provisions to also apply to youth and families in connection with an Indian child custody proceeding in order to conform with related provisions of the federal Indian Child Welfare Act (ICWA), and expands the definition of an "approved relative caregiver" to include an extended family member who has been approved as a tribally approved home.

EXISTING LAW:

- 1) Establishes ICWA, which provides guidance to states regarding the jurisdictional requirements, proceedings of tribal courts, and custody proceedings involving the removal of Indian children from their parents. (25 United States Code Section [U.S.C.] 1901 *et seq.*)
- 2) Requires, in the case of an Indian child for whom the child's tribe is not exercising its right to approve a home, the county to apply the prevailing social and cultural standards of the Indian community, as required by state law and ICWA. (25 U.S.C. 1901 *et seq.*)
- 3) Provides that a federally recognized tribe is authorized, but not required, to license or approve a home for the purpose of foster or adoptive placement of an Indian child pursuant to ICWA. (25 U.S.C. 1915; Welfare and Institutions Code Section [WIC] 10553.12)

- 4) Defines a “tribally approved home” to mean a home that has been licensed or approved by an Indian child’s tribe, or a tribe or tribal organization designated by the Indian child’s tribe, for foster care or adoptive placement of an Indian child using standards established by the child’s tribe pursuant to ICWA. A tribally approved home is not required to be licensed or approved by the state or county and is equivalent to a state-licensed or county-licensed or approved home, including an approved resource family home. Requires specified background check requirements for foster care or adoptive placement to apply to a tribally approved home. (WIC 224.1(r))
- 5) Defines the term “extended family member” as used in connection with an Indian child custody proceeding, to be defined as provided in ICWA, which states extended family members are to be as defined by the law or custom of the Indian child’s tribe or, in the absence of such law or custom, a person who has reached the age of 18 and who is the Indian child’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (WIC 224.1(c))
- 6) Provides that a child may become a dependent of the juvenile court and be removed from their parent or guardian’s custody on the basis of abuse or neglect. (WIC 300)
- 7) Defines a “nonrelative extended family member” as an adult caregiver who has an established familial relationship with a relative of the child, or a familial or mentoring relationship with the child. Requires the county welfare department to verify the existence of a relationship through interviews with the parent and child or with one or more third parties. Specifies that the parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends. (WIC 362.7)
- 8) Establishes that the Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, certified family home or resource family of a licensed foster family agency, or a tribally approved home. Requires an individual to be required to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in a community care facility or certified family home. (WIC 1522)
- 9) Authorizes CDSS, except as otherwise provided with respect to a foster care provider applicant, including a relative caregiver, NREFM, or resource family, after review of the record, to grant an exemption from disqualification for a license or special permit, or for a license, special permit, or certificate of approval, or for employment, residence, or presence in a community care facility, if CDSS 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 rehabilitated and is presently of such good character as to justify issuance of the license or special permit or granting an exemption. (WIC 1522(g)(1))
- 10) Requires, upon delivery to the social worker of a child who has been taken into temporary custody, the social worker to immediately investigate the circumstances and the facts surrounding the child being taken into custody and attempt to maintain the child with their family through the provision of services. Requires the social worker to immediately release the child to the custody of their parent, guardian, Indian custodian, or relative, regardless of the parent’s, guardian’s, Indian custodian’s, or relative’s immigration status, unless one or more specified conditions exist. (WIC 309)

- 11) Requires the social worker to report to the court on the reasons why the child has been removed from the parent's, guardian's, or Indian custodian's physical custody, the need, if any, for continued detention, the available services and the referral methods to those services that could facilitate the return of the child to the custody of the child's parents, guardians, or Indian custodian, and whether there are any relatives who are able and willing to take temporary physical custody of the child. (WIC 319)
- 12) Requires, if a court orders removal of a child, the court to first determine whether there is a parent of the child, with whom the child was not residing at the time they were removed, who desires to assume custody of the child. Requires, if that parent requests custody, the court to place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, physical, or emotional well-being of the child. (WIC 361.2)
- 13) Requires, in any case in which a child is removed from the physical custody of their parents, preferential consideration to 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. Requires, in determining whether placement with a relative is appropriate, the county social worker and court to consider specified factors. (WIC 361.3)
- 14) Requires, prior to making the emergency placement of a child, the county welfare department to conduct an in-home inspection; cause a state-level criminal records check to be conducted by an appropriate government agency through CLETS; and, conduct a check of allegations of prior child abuse or neglect concerning the relative or NREFM and other adults in the home. Further, requires the social worker to ensure that a fingerprint clearance check of the relative or NREFM and any other person whose criminal record was obtained is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through CLETS and to ensure criminal record clearance of the relative or NREFM and all adults in the home. (WIC 361.4)
- 15) Authorizes the probation agency to make an emergency placement of a minor ordered into its care, custody, and control with a relative or NREFM. Requires, prior to making the emergency placement, the probation agency to conduct an in-home inspection; ensure that a state-level criminal records check is conducted by an appropriate government agency through CLETS, and to conduct a check of allegations of prior child abuse or neglect concerning the relative or NREFM and other adults in the home. (WIC 727.05)
- 16) Requires aid in the form of state-funded Kin-GAP to be provided on behalf of any child under 18 years of age and to any eligible youth under 19 years of age, as provided, who satisfies all of the following conditions:
 - a) Has been adjudged a dependent child of the juvenile court, or, a ward of the juvenile court;
 - b) Has been residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement;
 - c) Has had a kinship guardianship established, and,

- d) Has had their dependency jurisdiction or wardship terminated, concurrently or subsequently to the establishment of the kinship guardianship. (WIC 11363)
- 17) Establishes placement eligibility criteria for AFDC-FC. (WIC 11402)
- 18) 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 youth placed with them who are ineligible for AFDC-FC payments, equal to the amount paid on behalf of youth who are eligible for AFDC-FC payments. (WIC 11461.3)
- 19) Authorizes a tribe that has entered into an agreement, to elect to participate in the Tribal Approved Relative Caregiver Funding Program. Requires, in return for the care and supervision of a child placed with an approved relative caregiver, a participating tribe to pay the approved relative caregiver a per child, per month rate that, when added to the tribal Temporary Aid to Needy Families (tribal TANF) benefit received by the approved relative caregiver on behalf of the child, is equal the rate established for the child’s assessed level of care. (WIC 11461.4)
- 20) Specifies the conditions under which a youth is eligible for AAP benefits. (WIC 16120)
- 21) Establishes the RFA Program under CDSS, as a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, certifying foster homes by licensed foster family agencies, approving relatives and NREFMs as foster care providers, and approving guardians and adoptive families. (WIC 16519.5)
- 22) Defines a “resource family” to mean an individual or family that has successfully met both the home environment assessment standards and the permanency assessment criteria necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. (WIC 15619.5 (c)(1))
- 23) Provides that a resource family shall be considered eligible to provide foster care for children in out-of-home placement and approved for adoption and guardianship, but that a county may approve a resource family to care for a specific child, as specified in the written directives or regulations. Requires child-specific approval to be considered if the applicant is a relative or NREFM who has an established and significant relationship with a child or a child is already placed in the home of the relative or NREFM. (WIC 16519.5 (a))
- 24) Requires, when child-specific approval is granted to a relative who has received a criminal records exemption, the child’s placement to be funded and prohibits the relative from being eligible for federal financial participation while the child is placed with them. (WIC 16519.5(c))

FISCAL EFFECT: According to the Senate Appropriations Committee on the April 11, 2023, version of this bill:

- Unknown, potential ongoing General Fund costs, to the extent that caseloads would increase in the benefit programs.

- To the extent the bill increases county costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment, the bill would apply to local agencies only to the extent that the state provides annual funding for the cost increases.

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 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, 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 physician. 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 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.

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.

CDSS secures federal funding to support CWS 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 were 52,265 youth between the ages of 0 and 21 in foster care in California.

Continuum of Care Reform (CCR). California began reforming the CWS system to improve placement and treatment options for youth in foster care known as the Continuum of Care Reform and most often referred to as CCR. AB 403 (Stone), Chapter 773, Statutes of 2015, was enacted followed by series of bills (see prior and related legislation below) that helped with the overall implementation. AB 403, 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 was enacted for the purposes of reducing 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. Think of Us, a research and design lab for the social sector, conducted a 2021 study entitled *Away From Home* which surveyed youth with recent lived experiences that found institutional placements:

- Failed to meet the mandate of child welfare of safety, permanency, and well-being.
- Were prison-like and punitive.
- Were traumatic and unfit for healthy child and adolescent development.
- Shielded youth from building relationships that would get them out of institutions.
- Were environments in which youth felt like they didn't have a way out.

Casey Family Programs has also assembled data confirming that youth who experience group placements have poorer educational outcomes than youth in family foster care, including lower test scores in basic English and math, are less likely to graduate high school, when compared to youth in family foster care, are at risk of physical abuse when they are placed in group settings, and lack opportunities to develop critical life skills and positive relationships.

Family finding and the resource family approval process. As part of the reforms set forth by CCR, CDSS and counties have been directed to invest time and resources into “family finding” which can include NREFMs. Family finding allows children to remain in a home with someone they know and are more comfortable, which as described above, are beneficial to the child. Existing law requires the juvenile court, during the dispositional hearing for a dependent child, to make a finding that the child’s social worker has exercised due diligence in identifying, locating and notifying the child’s relatives.

Once family, including NREFMs, have been identified, the RFA process can begin. RFA is designed to be 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.

Effective January 1, 2017, all new relative home placements were required to meet RFA standards and counties are encouraged to consider the likelihood that a relative will be able to meet those standards when evaluating that possibility. Existing law also provides for a process to place a child with a relative, either on an emergency basis or based on a compelling reason, prior to full RFA approval.

SB 354 (Skinner), Chapter 687, Statutes of 2021: SB 354 adopted changes to the criminal background check process during the RFA process for relatives of children placed in the CWS system, and permitted the court to authorize placement of children with relatives in certain circumstances, regardless of the status of any criminal exemption or RFA. SB 354 limited the convictions for which an exemption cannot be granted to those that occurred within the last 10 years and authorized CDSS, for the purpose of the RFA process, to grant an exemption from disqualification for the conviction of a felony for which a criminal record exemption cannot be granted, if the applicant is seeking placement of a specific relative child or children, the applicant or other adults living in the home are of present good character necessary to justify granting the exemption, and the applicant, or other adults living in the home have not been convicted of certain felonies within the last five years. SB 354 further expanded the types of convictions for which CDSS is required to grant an exemption and revised the standards used to determine if a

permissive exemption should be granted. SB 354 also specified that exemptions to crimes that were previously non-exemptible, only apply to the placement of a specific child or children. To date, this Committee is not aware of any negative outcomes from SB 354.

This bill builds upon the structure of SB 354 by expanding CDSS' authority, for the sole purpose of approving a home as part of the RFA process, to grant an exemption for NREFMs who have been convicted of a specified offense if the applicant is seeking placement of a specific child or children with whom the applicant has a familial or mentoring relationship, the applicant or other adults living in the home are of present good character necessary to justify granting the exemption, and the applicant or other adults living in the home do 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. This bill, similar to SB 354, further provides that an exemption granted shall only be valid for purposes of the applicant's child-specific resource family approval, or tribally approved home, and is not transferrable to any other setting.

Indian Child Welfare Act. Prior to the mid-1970s, Indian children faced high rates of removal, estimated to be as high as 25-35% of all Indian children, from their families, and subsequent placement in non-Indian homes. In response, in 1978, Congress enacted federal legislation, ICWA (25 U.S.C. 1901 *et seq.*) to address a number of the issues related to the custody of Indian children and, ultimately, to ensure the preservation of Native American families, tribes, and tribal cultures. When a case is subject to ICWA, both the child and the parents are entitled to different, culturally appropriate services that may be available only to Native Americans. When a dependency case involves an Indian child, ICWA imposes substantive requirements that are different from those imposed under the Welfare and Institutions Code for non-Indian children. ICWA established minimum standards with which state courts must comply any time an Indian child is removed from their family or custodial home and placed in foster care or adoptive homes. It does not prohibit states from establishing higher standards. As of January 1, 2023, there were 669 Native American youth in foster care in California.

There is currently a Supreme Court case challenging the constitutionality of ICWA and at stake are the following issues:

- Whether various provisions of ICWA violate the anti-commandeering doctrine of the Tenth Amendment;
- Whether the individual plaintiffs have Article III standing to challenge ICWA's placement preferences for "other Indian families," and for "Indian foster homes"; and,
- Whether the default placement preferences for Indian homes in adoption or foster care cases are rationally related to legitimate governmental interests and therefore consistent with equal protection.

If ICWA is overturned, and in recognition of tribal sovereignty, this bill places references to elements of the federal law into state statute by including references to "extended family members", "tribally approved homes", and, "tribal Title IV-E agency" where applicable throughout these provisions and expands the definition of an "approved relative caregiver" to include an extended family member, who has been approved as a tribally approved home.

Kinship Guardianship Assistance Payment Program: Kin-GAP is a cash aid program that supports eligible relative caregivers in California who become legal guardians as the permanency option for exiting the CWS system. The Kin-GAP Program has two components: a federally funded component when the child is eligible for Title IV-E foster care, and a state-funded component for when the child is not eligible for Title IV-E foster care. The parallel state-funded Kin-GAP Program was created by the Legislature to ensure that dependent children and wards of the juvenile court who are not otherwise eligible for Title IV-E payments, but are in long-term, stable placements with relatives, are equally eligible for the benefits through the state funded Kin-GAP Program. This bill adds to the conditions under which aid in the form of state-funded Kin-GAP is required to be provided on behalf of any child under 18 years of age and to any eligible youth under 19 years of age, to include a youth who was subject to an order for placement with a relative regardless of the status of any criminal record exemption or RFA.

Aid to Families with Dependent Children-Foster Care: The purpose of the AFDC-FC Program is to provide financial assistance for those children who have been placed in foster care who meet the eligibility requirements as specified in department regulations and in applicable state and federal laws. This bill adds to the placements that would allow a youth to be eligible for AFDC-FC, the home of a NREFM that has been authorized by the juvenile court and is ineligible for emergency caregiver funding due to the denial of RFA. The bill also specifies that unless otherwise authorized by federal law, federal financial participation is not available for this type of placement. The bill also adds to the conditions under which the county with payment responsibility is required to pay an approved relative caregiver a per-child, per-month rate at the youth's assessed level of care in return for the care and supervision of the youth to include youth who are not eligible for AFDC-FC while placed with the relative caregiver because the placement was authorized by the juvenile court. Requires, when child-specific approval is granted to a NREFM or extended family member who has received a criminal records exemption, the child's placement to be funded and prohibits the relative, NREFM, or extended family member from being eligible for federal financial participation while the child is placed with them.

Adoption Assistance Program is available to both relative and non-relative families who adopt children from foster care and is designed to reduce financial barriers to the adoption of children who might otherwise remain in foster care. The AAP rate is negotiated with each family and is based on the child's basic and special needs and the circumstances of the family. This bill expands eligibility for AAP to include the prospective adoptive parent or any adult living in the prospective adoptive home who has completed the criminal background check requirements for RFA, or the child was subject to an order for placement with a relative, NREFM, or extended family member, regardless of the status of any criminal record exemption or RFA or tribally approved home approval.

Author's statement: According to the Author, "[This bill] seeks to remove broad and overly restrictive barriers to kinship care, which is a vital resource for children who need to be placed outside of their parents care for any number of reasons. Kinship care, when deemed healthy and safe, better maintains ties between children and their family, friends and community. Foster children who were in kinship care are more likely as adults to be employed or enrolled in higher education and less likely to need public assistance, experience homelessness, or be incarcerated, compared to children who were placed in non-kin foster care.

“California’s placement and approval processes exclude too many extended family members who are fit and willing to care for children but do not meet the legal definition of being a ‘relative’. The barriers to placement place blanket restrictions on relatives with a criminal histories. While there is certainly a need to keep California’s children safe, this restriction is far too broad and sweeping. Many people who have previously dealt with our criminal justice system are perfectly capable of being responsible for the care and wellbeing of a child. The families disproportionately impacted by this broad restriction are communities of color. [This bill] seeks to keep children, whenever it is reasonably possible to do so, with their families, tribes, and communities by expanding the pool of eligible kinship caretakers for foster youth.”

Need for this bill: SB 354 removed barriers to children being placed with family members by ensuring that any relationship between a relative caregiver and a child would be considered for placement, and broadened the list of criminal conviction requirements that would qualify for a criminal record exemption for a parent or guardian going through the RFA process.

However, NREFMs, and, in the case of an Indian child, extended family members, were not included in SB 354. This bill expands upon the efforts of SB 354 by additionally authorizing CDSS to grant a criminal exemption to NREFMs or, in the case of an Indian child, extended family members.

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 temporarily in an out-of-home placement through the foster care system, county social workers are required to locate any relatives or NREFMs who may serve as caregivers to the youth.

Data from the California Child Welfare Indicators Project show that in October 2021, the total number of all children in foster care for 24 months or longer, including foster children 18 years of age and older and foster children living with relatives, was 27,475, or 46% of all children in foster care.

Family finding and engagement is defined as a broad concept which encompasses not only the statutory requirements pertaining to identifying, locating, and notifying the relatives of a child in foster care, but also related efforts to foster life-long familial connections for children and youth in care. These additional efforts, which are meant to enhance the long-term well-being of children and youth in care, as an important component of CCR’s goal to reduce the use of congregate care and improve child welfare outcomes. Intensive family finding and engagement can be used by counties to identify possible relative or NREFM placements for children and youth currently placed in group homes, potentially allowing those children and youth to step down to a home-based care setting, consistent with the goals of CCR. Counties are also urged to seek out the practice of family finding and engagement above and beyond the statutorily required relative finding, to be used when opening a case as a way to identify the best possible placement for the child or youth.

Research shows that children placed with their own relatives and extended family members have greater placement stability, fewer emotional and behavioral problems, and more connections to their biological families and social-cultural communities.

Equity Implications: Research has indicated that youth in foster care have reliably been shown to be at high risk of poor adult outcomes. Foster youth disproportionately are low-income when compared to their non-foster youth peers. The vast majority of youth who are placed in California's foster care system have been removed from low-income households, roughly half of them living below the federal poverty level. The average annual income of foster youth age 18 to 21 was \$9,740, placing them well below the federal poverty line

According to the Legislative Analyst's Office (LAO), in California, the populations reflected in foster care are predominantly youth of color, as 21% are Black and 50% are Latino. Further highlighting the disproportionality comprising the foster youth population, the number of Black and Native American youth in foster care are four times larger than the number of the general population of Black and Native American youth in California. The LAO also states that racial disproportionalities and disparities are present within initial allegations and persist at all levels of the system—becoming the most pronounced for youth in care. Additionally, LGBTQ youth are also overrepresented in foster care, according to the UCLA Williams Institute, with 13.6 % of foster youth identifying as lesbian, gay, bisexual, or questioning, and 5.6% identifying as transgender, compared to 10.3% of California's students in public middle and high schools identifying as LGBTQ.

California's current placement and approval processes have the potential of excluding NREFMs who are fit and willing to care for children, but are unable to due to past convictions that disqualify them from the RFA process. The systematic barriers to foster care placements, especially those related to criminal history, disproportionately impact communities of color. Ensuring that loved ones can foster a child in their time of need is essential to the child's safety, stability, and well-being.

According to the Child Welfare Indicators project, Black, Native American, and Latino children are more likely to have contact with the foster care system than their White counterparts. Many of these children have NREFMs with a past conviction, which creates a barrier to establishing a placement. This bill would ensure that marginalized groups are no longer automatically disqualified from caring for and adopting children with whom they already have a relationship.

Double referral: Should this bill pass out of this Committee, it will be referred to the Assembly Judiciary Committee.

PRIOR AND RELATED LEGISLATION:

AB 448 (Juan Carrillo) of 2023, requires a social worker and/or probation officer to immediately conduct, but no later than 30 days after the child has been removed, an investigation in order to identify and locate all relatives of the child, and to document their efforts to the court, and in the case of an Indian child, the active efforts and results of those efforts to locate relatives. Adds requirements for social workers and probation officers to document their efforts and results to locate relatives who are able and willing to take temporary physical custody of the child. *AB 448 is currently pending referral in the Senate Rules Committee.*

SB 354 (Skinner), Chapter 687, Statutes of 2021, made changes to the criminal background check process during the RFA process for relatives of children placed in the CWS system by allowing potential exemptions for convictions of all but a specified list of felonies; permits the court to authorize placement of children with relatives in certain circumstances, regardless of the

status of any criminal exemption or RFA; and, requires, no later than January 1, 2024, CDSS to submit a report to the Legislature related to criminal record exemptions.

SB 213 (Mitchell), Chapter 733, Statutes of 2018, streamlined the background check process for prospective foster 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, was substantially similar to SB 213 above, and 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 an early assessment of a relative home for placement of a dependent child, provided for court oversight if that early assessment did not occur in a timely manner, and required county welfare agencies to assist persons filing for criminal records exemptions with locating pertinent documents. *SB 942 was held on the Assembly Appropriations Committee suspense file.*

AB 403 (Stone), Chapter 773, Statutes of 2015, 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, implemented CCR to better serve children and youth in California's CWS system.

AB 2651 (Aghazarian), Chapter 701, Statutes of 2008, made changes to state statute for matters of conformity with federal law related to criminal record checks for placement of a youth with prospective adoptive or foster parents.

REGISTERED SUPPORT / OPPOSITION:

Support

A New Way of Life Reentry Project (Co-Sponsor)
Alliance for Children's Rights (Co-Sponsor)
California Tribal Families Coalition (Co-Sponsor)
Children's Law Center of California (Co-Sponsor)
Legal Services for Prisoners with Children (Co-Sponsor)
ACLU California Action
California Alliance of Caregivers
California Catholic Conference
Communities United for Restorative Youth Justice (CURYJ)
County Welfare Directors Association of California (CWDA)
East Bay Family Defenders
Los Angeles Dependency Lawyers, INC.
Oakland Privacy
Public Counsel
Root & Rebound
Seneca Family of Agencies
Sister Warriors Freedom Coalition

Opposition

None on file

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