

Date of Hearing: April 26, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 1686 (Bryan) – As Amended January 31, 2022

SUBJECT: Child welfare agencies: enforcement

SUMMARY: Adds the requirement that the county welfare department, in making a specified determination on referring a case to the local child support agency for child support services, to presume that the payment of support by the parent is likely to pose a barrier to the proposed reunification. Specifically, **this bill:**

- 1) Makes Legislative findings and declarations related to the child welfare system and the impact of child support on family reunification.
- 2) Requires the California Department of Social Services (CDSS) regulations to require the county child welfare department, in making its determination whether it is in the best interests of a child or nonminor, in any case of separation or desertion of a parent from a child that results in foster care assistance payments, payments for a minor child placed in the same home as a minor or nonminor dependent parent, or California Work Opportunity and Responsibility to Kids (CalWORKs) payments to a caretaker relative of a child who comes within the jurisdiction of the juvenile court, to have their case referred to the local child support agency for child support services, to presume that child support payment by the parent is likely to pose a barrier to the proposed reunification.
- 3) Adds to CDSS's regulations, regarding when the county child welfare department determines that it is not in the best interest of the child to seek a support order against the parent, the presumption that the payment of support by the parent is likely to pose a barrier to the proposed reunification.
- 4) Requires CDSS to implement the provisions of this bill on or before October 1, 2023.
- 5) Makes technical changes.

EXISTING LAW:

- 1) Establishes the Department of Child Support Services (DCSS) as the statewide agency responsible for administering and managing California's child support enforcement program. (Family Code Section [FAM] 17202)
- 2) Defines "support order" as a child, family, or spousal support order for purposes of modification, termination, or set aside of support orders. (FAM 3650)
- 3) Requires each county to maintain a local child support agency (LCSA), responsible for promptly and effectively establishing, modifying, and enforcing child support obligations. (FAM 17400)
- 4) Requires CDSS, in consultation with DCSS, to establish regulations by which the county welfare department can determine if it is contrary to the best interests of a child to refer their

child welfare case to the local child services agency LCSA for child support services. Further requires all of the following factors to be considered:

- a) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.
 - b) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the child's financial needs. (FAM 17552 (a))
- 5) Requires regulations to provide that where the county child welfare department determines it is not in the child's best interest to seek a support order against the parent, the county child welfare department should refrain from referring the case to the LCSA. (FAM 17552 (b))
 - 6) Requires regulations to provide that where the county welfare department determines that it is not in the child's best interest to have the case referred to the local child support agency, the county welfare department should review that determination periodically to coincide with the redetermination of specified public benefits programs. Further, requires the department to refer the child's case to the LCSA upon the determination that due to a change in circumstance, it is no longer contrary to the child's best interest to have the case referred to the LCSA. (FAM 17552 (c))
 - 7) Establishes a statewide uniform guideline to ensure the state complies with federal child support regulations. (FAM 4050 *et seq.*)
 - 8) Allows for the modification or termination of a support order at any time as the court determines to be necessary. (FAM 3651(a))
 - 9) Requires DCSS to establish and operate a statewide compromise of arrears program to take into consideration the needs of the children subject to the child support order and the obligor's ability to pay. (FAM 17560)
 - 10) Establishes a state and local system of Child Welfare Services (CWS), including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or who have been abused or neglected, as specified. (Welfare and Institutions Code Section [WIC] 202)
 - 11) Establishes the Temporary Assistance for Needy Families (TANF) program in federal law, which provides block grants to states to develop and implement their own state welfare-to-work (WTW) programs designed to provide cash assistance and other supports and services to low-income families. (42 United States Code Section [U.S.C] 601 *et seq.*)
 - 12) 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. (WIC 11200 *et seq.*)
 - 13) Provides that the purpose of the juvenile court dependency system is maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that

the focus of the juvenile court dependency system is the preservation of the family and the safety, protection, and physical and emotional well-being of the child. (WIC 300.2)

- 14) Defines "nonminor dependent" as a foster child who is a dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court, and satisfies all criteria, as specified. (WIC 11400 (v))
- 15) States Legislative intent to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with their biological family whenever possible, or to provide a permanent placement alternative. (WIC 16000)
- 16) Requires the court, at the dispositional hearing, to order a social worker to provide child welfare services to a child who has been removed from their parents' custody and to the parents in order to support the goal of reunification, for a specified time period, except under certain circumstances. Further, 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 if the child is over three years of age, but that may be extended up to 18 or 24 months, as specified. (WIC 361.5 (a))
- 17) Provides that reunification services need not be provided if the court finds, by clear and convincing evidence, that one of 17 specified conditions exist, generally, situations where reunification would be dangerous for the child. (WIC361.5(b))
- 18) Requires a county department, in cases in which the paternity of a child has not been established to the satisfaction of that department, to refer the applicant to a local child support agency at the time the application is signed, as specified. (WIC 11479)
- 19) Requires money from noncustodial parents paid for child or spousal support with respect to whom an assignment has been made according to CalWORKs rules to be paid directly to the LCSA and not directly to the family, as specified. (WIC 11457)
- 20) Provides federal regulations for the purpose of distribution of collected child support for states receiving TANF program funding. (42 United States Code Section [U.S.C.] 657)
- 21) Provides, under Title IV-E of the federal Social Security Act, that, where appropriate, all steps be taken to secure an assignment to the state of any child support rights to support on behalf of each child receiving foster care maintenance payments, as specified. (42 U.S.C. 617 (a)(17))
- 22) Requires, as a condition of eligibility for CalWORKs aid, each applicant or recipient to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception, as specified. (WIC 11477 (b)(1))

FISCAL EFFECT: Unknown

COMMENTS:

Child support: Noncustodial parents are often responsible for paying child support payments to custodial parents and their children. A child support order provides the amount of child support that a noncustodial parent must pay. In California, these orders can be established privately, using an attorney or during divorce proceedings, or using the state child support system to help establish an order. The state child support program, administered by DCSS and run locally through 49 LCSAs, establishes child support orders and collects payments from noncustodial parents to distribute to custodial parents and their children. Data shows that often child support obligations fall disproportionately on low-income families. Currently, over half of parents with children in the child welfare system who have a child support order have an annual income of less than \$10,000.

Child Welfare Services (CWS): California's CWS system was established to protect youth from harm and promote overall well-being. The system outreach relies on mandated reporters, requiring those in certain professions to be trained to recognize, and obligated under law, to report harmful behaviors that may be a sign of abuse or neglect. In California, various professions that often interact with vulnerable populations serve as mandated reporters, such as school staff and medical personnel. Under state law, these workers have an obligation to report an incident of suspected abuse or neglect within 36 hours to the appropriate law enforcement agency or social services department.

After an allegation of suspected abuse or neglect is reported, Child Protective Services is tasked with 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 as a dependent. If a child is suspected to be at risk of neglect, abuse, or abandonment, the juvenile court holds legal jurisdiction, and the CWS system appoints a social worker to ensure that the needs of the youth are met. The court may order reunification services for parents who have had a child removed under specific circumstances. To ensure children are protected from harm, there are specified instances when a parent or guardian can be denied reunification services by the court, with factors consisting of various behaviors and circumstances that render a parent incapable of meeting their child's needs. As of January 1, 2022, there were 55,539 youth between the ages of 0 and 21 in California's CWS system.

Dependency Court: If the social worker petitions for the child to be declared a dependent of the court, current law requires the detention hearing be held within 48 hours of the petition being filed. Social workers must outline at the detention hearing the allegations of abuse or neglect made against the child's parents and the rationale for removing the child from their parent's custody. Within 15 days of a child's removal from their parents' custody, a jurisdictional hearing must occur to determine whether the allegations outlined in the social worker's petitions are true. If the allegations are deemed to be true, then the child is determined to be within the juvenile court's jurisdiction, thereby prompting a dispositional hearing within 60 days of the initial detention hearing. At the dispositional hearing, the court determines the family reunification plan parameters and determines where and with whom the child will reside. If the court determines that the child's best interests are served by removing them from their parent's custody, the child is removed, and the child's permanent placement is determined in a later hearing. When appropriate, the system works to reunite children with their parents or guardians whose custody they were removed from.

Reunification services: The court may order reunification services for parents who have had a child removed when it is determined that reunification with the family would ultimately benefit the child. As the goal of the CWS is to reunify families whenever possible, parents are generally provided with support and services aimed at assisting them in meeting the needs of their child. To ensure children are protected from harm, there are 17 instances when a parent or guardian can be denied reunification services by the court, with factors consisting of various behaviors and circumstances that render a parent incapable of meeting their child's needs. Depending on the child's age, reunification services can be offered for between six months (for children under the age of three) and 12 months (for children ages three and older). Extensions for certain circumstances may be granted if there is a substantial probability that the child will be returned to the physical custody of their parents and for parents who are making significant and consistent progress in a court-ordered residential substance abuse treatment program or recently discharged from incarceration, institutionalization, or the custody of the United States Department of Homeland Security.

California Work Opportunity and Responsibility to Kids (CalWORKs): 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 mainly funded 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 to address mental health needs, substance use disorders, experiences of domestic violence, and learning disabilities, among other issues. Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a WTW plan. CalWORKs-approved WTW activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education, and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance abuse, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment. Many families earn some income or live in a lower cost-of-living county and do not qualify for the maximum grant amount.

CalWORKs and child support: Federal TANF regulations require states to collect child support on behalf of custodial parents who receive program funding; therefore, when families apply for CalWORKs, they must assign any rights to support over to the county. Child support payments subsequently received are distributed to the state and federal governments to reimburse the costs of CalWORKs benefits. However, CalWORKs applicants who are owed child support arrearages that accrued when they were not receiving CalWORKs cash aid do not have to assign those arrears to be eligible for CalWORKs. Per federal law, states can disregard up to the first \$100 per month of collected child support for families with one child and up to the first \$200 per month for families with two or more children, whereby that support collected is "passed through" to the family on whose behalf the support was collected. As of January 1, 2022, the amount disregarded and passed through to CalWORKs families increased from \$50 to the federal limit of \$100 for one child and \$200 for two or more children. Once a custodial parent exits CalWORKs, DCSS is required to continue enforcement of the support order, although the custodial parent can choose to not use the continued services of DCSS.

Linkages Project: Across counties, many children and families are involved in both the CalWORKS program and the CWS. To help individuals navigate the conflicting requirements, the state offers the Linkages Project. This project, established in 2000 in partnership with CDSS and the California Center for Research on Women and Children, utilizes federal grant and state funding to provide services statewide. Linkages has developed into a service coordination partnership between CWS and CalWORKS that helps families manage CWS, family reunification plans, and CalWORKs WTW plans. The program keeps the children safe by helping families achieve self-sufficiency, stability, and well-being through coordinated, family-focused partnerships.

Need for this bill: This bill aims to help increase reunification for families involved in the child welfare system by creating a presumption that the payment of child support fees is likely to pose a barrier to reunification. Research shows that a referral to child support enforcement can make reunifying a child with their parents much harder; a recent study from Wisconsin which reviewed families with children who were removed from parental care and placed out of the home showed that each \$100 in child support payments made by mothers increased their children's stay in foster care by 6.6 months. This bill's provisions have no impact on a child welfare agency's ability to review and investigate individual cases but instead could help increase the achieved goal of the child welfare system of reuniting youth with their biological family whenever possible.

According to the author, "In many places in California, parents are charged for the time their children spend in foster care. This debt is a real and significant barrier to the goal of family reunification. It disproportionately burdens single women of color, and studies have shown that the cost of collections exceeds the debt owed. It is time to end this ineffective and inefficient practice statewide, as several counties have already done. That is why on a statewide level [this bill] directs child welfare agencies to prioritize family reunification over the practice of burdening parents and guardians with unnecessary debt."

Double Referral: This bill passed out of the Assembly Judiciary Committee on March 15, 2022, with a 7-3 vote.

RELATED AND PRIOR LEGISLATION:

AB 79 (Committee on Budget), Chapter 11, Statutes of 2020, amongst other things, increased the amount of monthly child support passed through to CalWORKs recipients from \$50 per family to \$100 for a family with one child or \$200 for a family with two or more children.

SB 380 (Bradford), Chapter 729, Statutes of 2017, allowed, in certain instances, a CalWORKs assistance unit to receive the full child support payments for a stepsibling or half-sibling in that unit, and prohibited those child support payments from impacting CalWORKs eligibility or benefit level determination.

AB 1654 (Bonilla) of 2014 would have increased the amount of monthly child support passed through to CalWORKs recipients from \$50 per family to \$100 for a family with one child or \$200 for a family with two or more children. AB 1654 was held on the Senate Appropriations suspense file.

AB 1449 (Keely), Chapter 463, Statutes of 2001, required CDSS, in consultation with DCSS, to promulgate regulations by which the county welfare department, in any case of separation or

desertion of a parent or parents from a child that results in CalWORKs aid, shall determine whether it is in the best interests of the child to have the case referred to the local child support agency for child support services. Specified that if reunification services are not offered or are terminated, the case may be referred to the local child support agency. Further, specified the factors that the county child welfare department shall consider.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for Children's Rights (Co-Sponsor)
 County Welfare Directors Association of California (CWDA) (Co-Sponsor)
 Los Angeles Dependency Lawyers, INC. (Co-Sponsor)
 A Home Within
 A New Way of Life Re-entry Project
 California Alliance of Caregivers
 California Alliance of Child and Family Services
 California Families Rise
 California State Council of Service Employees International Union (seiu California)
 California Youth Connection (CYC)
 Center for Public Interest Law/Children's Advocacy Institute/university of San Diego
 Children Now
 Children's Institute
 Communities United for Restorative Youth Justice (CURYJ)
 Dependency Advocacy Center
 Dependency Legal Services (UNREG)
 East Bay Children's Law Offices
 East Bay Family Defenders
 Ella Baker Center for Human Rights
 Inland Juvenile Panel Attorneys
 John Burton Advocates for Youth
 Justice2Jobs Coalition
 Juvenile Law Center
 Law Foundation of Silicon Valley
 Legal Services for Prisoners With Children
 National Association of Social Workers, California Chapter
 Public Counsel
 San Francisco Financial Justice Project
 Starting Over, INC.
 The San Francisco Foundation

Opposition

None on file

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