

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 829 (Levine) – As Amended April 5, 2021

Policy Committee:	Human Services	Vote:	7 - 0
	Judiciary		9 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill requires a county to make its “best efforts” to provide undocumented youth in foster care under the jurisdiction of the juvenile court with access to immigration legal services. This bill also requires a child welfare agency to notify a youth’s attorney when the youth is an undocumented immigrant. Further, this bill requires counties to track and report data regarding undocumented foster youth to the California Department of Social Services (CDSS). Specifically, this bill:

- 1) Requires a county to make its best efforts to provide undocumented minors and nonminor dependents (NMDs) in foster care under the juvenile court's jurisdiction with access to immigration legal services.
- 2) Requires a county, by June 1, 2022, to develop a process for tracking the number of undocumented minor and NMDs in foster care under the juvenile court's jurisdiction and whether these individuals have been provided with access to immigration legal services and to report this information to CDSS by January 1, 2023, and annually thereafter.
- 3) Requires CDSS, by July 1, 2023, and by July 1 annually thereafter, to publish a report on its internet website containing the information submitted by counties in (2) above.
- 4) Requires a county, by June 1, 2022, to report to CDSS its internal process for providing undocumented minors and NMDs in foster care under the jurisdiction of the juvenile court access to immigration legal services. Requires a county whose system is inadequate to ensure services are provided to specify in the report the additional resources it requires.
- 5) Requires the child welfare agency, within 72 hours of learning a minor or NMD is an undocumented immigrant, to notify the youth’s attorney of the youth’s immigration status.

FISCAL EFFECT:

- 1) The following state-mandated local costs are not reimbursable, but instead must be funded by the state pursuant to Proposition 30.
 - a) Ongoing annual costs, potentially in the hundreds of thousands of dollars (GF) statewide, for each county to make its “best efforts” to provide undocumented foster youth under the jurisdiction of the juvenile court with access to immigration legal services. These costs are difficult to quantify because the bill does not define “best efforts,” but will depend on

the number of undocumented youth involved, the services available in each county and amount of staff time each county devotes to these efforts.

- b) One-time costs, unknown, but likely significant in larger counties, for each county to develop an information tracking process by June 1, 2022. Likely minor costs for each county to annually report the information obtained to CDSS.
- c) One-time costs, likely in the high tens of thousands of dollars to the low hundreds of thousands of dollars (GF) statewide, for each county to report to CDSS, by June 1, 2022, on its internal process for providing access to immigration legal services to undocumented foster youth in foster care under the jurisdiction of the juvenile court and, if necessary, to specify additional resources needed.
- d) Minor costs, likely in the low tens of thousands of dollars (GF) annually statewide, for county social workers to notify an undocumented child's attorney within 72 hours of learning of the child's immigration status.

Proposition 30 (November 2012), requires legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment (including child welfare services and foster care) to apply only to local agencies to the extent the state provides annual funding for the cost increase.

- 2) Minor and absorbable costs to CDSS to receive county data and post the required report on its internet website.

COMMENTS:

- 1) **Purpose.** This bill seeks to connect undocumented immigrant minors in the child welfare services system with legal counsel to ensure they are provided with essential immigration legal services necessary to seek lawful residency in the United States.
- 2) **Background.** According to the Migration Policy Institute, California is home to approximately 123,000 undocumented youth under the age of 16. Most undocumented youth in foster care qualify for immigration relief, but that relief is difficult to obtain without legal assistance. Special Immigrant Juvenile Status (SIJS) was enacted by the federal government in 1990 to help undocumented youth obtain permanent residency in the United States. However, undocumented youth who leave foster care without applying for SIJS or any other form of immigration relief unintentionally forfeit their opportunity to obtain these services, resulting in an uncertain transition to adulthood. Currently, there isn't a mechanism or process to ensure undocumented youth receive the necessary legal assistance to obtain immigration relief.

Under the federal Trafficking Victims Protection Reauthorization Act of 2008, any unmarried person under age 21 who has been abused, neglected or abandoned by a parent may seek classification as SIJS and then immediately apply for lawful permanent resident status. While a juvenile (or the juvenile's representative) must eventually apply to the United States Citizenship and Immigration Service (USCIS) for SIJS, the first step requires the juvenile to obtain requisite findings from a state court (a family, juvenile or probate court).

Obtaining legal status is a critical component of a foster youth's successful transition to adulthood, as legal status opens up numerous opportunities for education and employment, while lack of legal status places youth at risk of deportation.

- 3) **CDSS Legal Services Funding.** Existing law authorizes CDSS to award funding to qualified nonprofit legal services organizations for representation and provision of services to unaccompanied, undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state. Services include culturally and linguistically appropriate legal services for state court proceedings, federal immigration proceedings, and any related appeals, provided by attorneys, paralegals, interpreters and other support staff. Legal representation is offered for various immigration statuses, including SIJS, asylum, certain visas, and other remedies. However, this grant program does not directly fund immigration legal services for undocumented youth in foster care who are under the jurisdiction of the juvenile court.

This bill asks counties to make their "best efforts" to provide undocumented youth in foster care under the jurisdiction of the juvenile court with access to immigration legal services and to track the number of these youth in order to better serve this population.

4) **Prior Legislation.**

AB 1324 (Levine), of the 2019-20 Legislative Session, would have required the CDSS, if funding is available, to contract with qualified nonprofit legal services organizations to provide legal services to undocumented immigrant dependent children or NMDs of the juvenile court or who have orders for placement through the juvenile court. AB 1324 was amended as it passed out of this committee to address an unrelated topic.

SB 873 (Senate Committee on Budget and Fiscal Review), Chapter 685, Statutes of 2014, required CDSS, subject to the availability of funding, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state.

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