
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 829 (Levine) - Foster children: immigration counsel and guardianship

Version: June 29, 2021

Urgency: No

Hearing Date: August 16, 2021

Policy Vote: HUMAN S. 5 - 0, JUD. 11 - 0

Mandate: Yes, nonreimbursable

Consultant: Karen French

Bill Summary: AB 829 expands on the Legislature's efforts to help unaccompanied minors obtain the immigration relief they are entitled to under the law by improving access to immigration legal services, documentation of gaps in current services, and the continued availability of nonprofit, charitable guardianship.

Fiscal Impact: CDSS reports the following costs: of implementing this bill which would increase costs for counties to meet the new notification, data collection, and reporting requirements:

- Local assistance fiscal impact of \$54,000 General Fund (GF) (\$76,000 total funds) in fiscal year (FY) 2021-22 and ongoing annual costs of \$37,000 GF (\$52,000 total funds)
- Additional automation costs to allow for the recording of data on the provision of access to immigration legal services would be approximately \$2.1 million General Fund.

Background: According to the author, "the federal Special Immigrant Juvenile Status (SIJS) was created to help abused and neglected undocumented children obtain lawful permanent residency in the United States in order to provide greater stability to this underserved demographic. SIJS was established in 1990 for the purpose of protecting foster youth who are unable to reunite with their families, and serves as a primary route for undocumented foster child to gain lawful permanent immigration status in the United States, however; some children are unaware they can only apply for SIJS while in foster care, resulting in them unintentionally forfeiting their opportunity to obtain legal services through the program upon exiting the system."

The author goes on to note that "AB 829 requires counties to provide information to the California Department of Social Services regarding current procedures to identify how many undocumented foster youth or youth who are nonminor dependents they have in their care and provide these youth with immigration legal resources. Counties then must confirm whether the undocumented minors and nonminor dependents in foster care have been provided access to immigration legal services. The bill requires counties to report to the state whether gaps in resources exist to provide these resources to youth and for counties to make their best efforts to provide these youth with access to immigration legal services. This bill will ensure that undocumented youth in California's foster care system are provided with essential immigration legal services necessary to seek lawful residency in the United States and inform the State about current gaps in resources to achieve this."

Proposed Law: This bill includes the following provisions:

- 1) Eliminates the sunset, set to expire on December 31, 2021, on the provisions of law that provide that a nonprofit charitable corporation not incorporated in this state may be appointed as the guardian of a minor if specified requirements are met.
- 2) Additionally, requires a county to make its best efforts to provide an undocumented minor or nonminor dependent in foster care under the jurisdiction of the juvenile court with access to immigration legal services.
- 3) Requires county tracking and reporting regarding undocumented minor and nonminor dependents in foster care, as specified, including whether they have been provided access to immigration legal services.

Related Legislation: *AB 1140 (R. Rivas, 2021)* provides that specified duties of the California State Department of Social Services and the Office of the State Foster Care Ombudsperson include duties to children who are in state-licensed foster facilities and homes in the custody of the Office of Refugee Resettlement of the federal Department of Health and Human Services. This nonfiscal bill is on the Senate Floor Consent File.

Prior Legislation: *AB 2642 (Levine, Ch. 103, Stats. 2018)* in an effort to ensure that unaccompanied minors are able to apply for Special Immigrant Juvenile Status immigration relief, this bill provided that a nonprofit charitable corporation not incorporated in this state may be appointed as the guardian of a minor if specified requirements are met.

AB 2090 (Gonzalez Fletcher, Ch. 209, Stats. 2018) clarified, in an effort to ensure that all eligible youth in California are able, when appropriate, to obtain state court findings so that they can apply for Special Immigrant Juvenile Status immigration relief, that, for the limited purpose of obtaining the necessary state court findings, a probate court may appoint a parent as guardian.

AB 1603 (Committee on Budget and Fiscal Review, Ch. 25, Stats. 2016) made statutory changes to clarify the intent of SB 873 (Committee on Budget and Fiscal Review, Ch. 685, Stats. 2014) and AB 900 (Levine, Ch. 694, Stats. 2015), relating to the Unaccompanied Undocumented Minors program, administered by the Department of Social Services, which provides legal services funding for unaccompanied undocumented minors. Specifically, these changes clarify that special immigrant juvenile status (SIJS) findings can be made at any point in the court proceedings; prerequisites for SIJS findings are the same across superior court divisions; and perceived motivations of the child/juvenile in seeking classification as a special immigrant juvenile shall not be included or referred in the findings under this section.

AB 900 (Levine, Ch. 694, Stats. 2015) authorized, with the consent of the proposed ward, a probate court to establish or extend a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings for the youth to pursue Special Immigrant Juvenile Status immigration relief.

SB 873 (Committee on Budget and Fiscal Review, Ch. 685, Stats. 2014) enacted Code of Civil Procedure Section to strengthen protections for immigrant children by making it clear that all California courts have jurisdiction to make SIJS findings. Staff Comments:

Staff Comments: The state-mandated local costs in this bill are not reimbursable, but instead must be funded by the state pursuant to Proposition 30.

Proposed Author Amendments: None

Recommended Amendments: None

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