
SENATE COMMITTEE ON HUMAN SERVICES

Senator Hurtado, Chair
2021 - 2022 Regular

Bill No:	SB 100		
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Urgency:	No	Fiscal:	Yes
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Subject: Extended foster care program working group

SUMMARY

This bill requires the California Department of Social Services (CDSS) to convene a working group to examine the extended foster care (EFC) program and make recommendations for improvements to the program, as provided.

ABSTRACT

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. (*WIC 202*)
- 2) Establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction of the juvenile court and may be adjudged as a dependent child of the court, as specified. (*WIC 300 et seq.*)
- 3) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or 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*)
- 4) Defines “nonminor dependent” (NMD) as a current or former foster youth who is a current dependent child or ward of the juvenile court, or who is a nonminor under transition jurisdiction of the juvenile court, who is between 18 and 21 years old, in foster care under the responsibility of the county welfare department, county probation department, or Indian Tribe, and participating in a transitional independent living plan, as specified. (*WIC 11400(v)*)

- 5) Provides that the court may have within its jurisdiction any NMD, between the age of majority and 21 years, as defined. Further provides that a NMD shall retain all of their legal decision-making authority as an adult, except as specified. (*WIC 303(a) and (d)*)
- 6) Authorizes the juvenile court to resume jurisdiction over a nonminor who has attained 18 years of age, but not yet attained 21 years of age, and for whom the court has dismissed dependency, delinquency, or transition jurisdiction. (*WIC 303(c)*)
- 7) Requires the juvenile court, in making the findings regarding continuing dependency jurisdiction of a nonminor, to ensure the nonminor has been informed of their options, including the benefits of remaining in foster care and rights to re-enter foster care, and has had an opportunity to confer with their counsel if counsel has been appointed, as specified. (*WIC 391(c)*)
- 8) Requires a NMD to meet one or more of the following participation requirements to remain under a foster care order by the juvenile court:
 - a. Completing a secondary education or program leading to an equivalent credential;
 - b. Enrolled in an institution that provides postsecondary or vocational education;
 - c. Participating in a program or activity designed to promote or remove barriers to employment;
 - d. Employed for at least 80 hours per month; or
 - e. Incapable of doing any of the above due to a medical condition, as supported by regularly updated information in the nonminor's case plan. (*WIC 11403(b)*)
- 9) Provides that for youth exiting from care, at 18 or 21 years of age, a case worker, other appropriate agency staff or probation officer and other representatives, as appropriate, shall provide the youth or NMD with assistance and support in developing the written 90-day transition exit plan, that is personalized at the direction of the child or NMD, as provided. When appropriate, this plan must follow the youth's transitional intent living plan that was developed to prepare the youth for the transition from foster care. (*WIC 16501.1(g)(16)*)
- 10) Provides that a petition to resume jurisdiction over a nonminor may be submitted to the court that retains general jurisdiction, as provided, or to the juvenile court in the county where the youth resides and that the court shall order a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:
 - a. The nonminor was previously under juvenile court jurisdiction and was subject to an order for foster care placement at any time after the nonminor attained 18 years of age, and has not attained 21 years of age;

- b. The nonminor intends to satisfy at least one of the conditions required to participate in extended foster care, as provided; and
 - c. The nonminor wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement, as provided. (*WIC 388(e)(2)*)
- 11) Defines “Transitional Housing Placement Program” as a program serving foster children at least 16 years of age and not more than 18 years of age. (*WIC 16522.1(a)(1)*)
 - 12) Defines “Transitional Housing Program-Plus Foster Care” (THP+FC) to mean a transitional housing program serving NMDs between the ages of 18 and 21. (*WIC 16522.1(a)(2)*)
 - 13) Defines “Transitional Housing Program-Plus” (THP-Plus) as a provider certified by the applicable county to provide transitional housing services to former foster youth who have exited the foster care system on or after their 18th birthday. (*WIC 11400(s)*)
 - 14) Defines “Supervised Independent Living Placement” (SILP) to mean an independent supervised setting, as specified in a NMD’s transitional independent living case plan, in which the youth is living independently, as provided. (*WIC 11400(w)*)
 - 15) Requires CDSS, in consultation with stakeholders, to define how certain supervised independent living settings meet health and safety standards suitable for nonminors. (*WIC 11403(i)*)

This Bill:

- 1) Requires the CDSS to convene a working group to examine the extended foster care program and further requires the working group to make recommendations for improvements to extended foster care no more than six months from the date of enactment of provisions of the bill.
- 2) Requires the working group include representatives from the following: the appropriate fiscal subcommittees and policy committees of the Legislature; the Legislative Analyst’s Office (LAO); the Department of Finance (DOF); CDSS; the County Welfare Directors Association of California (CWDA); the Judicial Council; the office of the chancellor of the California Community Colleges; the State Foster Care Ombudsperson; the recognized exclusive representative of county child welfare social workers; current or former foster youth; dependency counsel; child welfare advocacy organizations; advocacy organizations serving homeless youth or youth at risk of homelessness; provider organizations; tribal representatives; and other groups and stakeholders that provide benefits, services, and advocacy to families and children in the child welfare and foster care systems.

- 3) Provides for the working group to consult with other individuals, groups, or organizations for additional insight or expertise on issues under consideration by the working group.
- 4) States legislative intent that the working group begin their work by looking back to the passage of AB 12 (*Beall, Chapter 559, Statutes of 2010*) and set a foundation for the working group's efforts by establishing the intended goals of the EFC program.
- 5) States further legislative intent around the working group exploring and responding to the impact of the COVID-19 pandemic on NMDs, particularly long-term economic impacts.
- 6) Requires the working group to evaluate and provide recommendations on:
 - a) The overall functioning of EFC system and ways to increase collaboration with other systems of care, including regional centers. This shall also take into account the impact of changes resulting from the federal Family First Prevention Services Act;
 - b) Higher education opportunities and supports for NMDs;
 - c) Job training and employment opportunities and supports for NMDs;
 - d) Housing access;
 - e) The needs of youth transitioning from short-term residential therapeutic programs (STRTPs);
 - f) Access to health care and mental health services, including reproductive health care;
 - g) Transition support for NMDs existing from care, including but not limited to, family finding, long-term supportive relationships, and permanency options; and
 - h) Supports and services for pregnant and parenting youth and their children.
- 7) Requires the working group to consider, for each area of EFC that they evaluate and provide recommendations on, any disparities in access or outcomes for youth who identify as members of marginalized groups, including, but not limited to: Black, Indigenous, and people of color (BIPOC); commercially sexually exploited children (CSEC); and/or lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQQ) youth.
- 8) Requires the working group's recommendations consider how they can be implemented in light of the 2011 realignment cost sharing requirements.
- 9) Requires the recommendations of the group to reflect a consensus of the working group. Further requires the working group to establish the process for determining a consensus of the working group during its initial meetings and to create a guiding framework for that process.

FISCAL IMPACT

This bill has not yet been analyzed by a fiscal committee.

BACKGROUND AND DISCUSSION

Purpose of the Bill:

According to the author, “SB 100 creates a working group to evaluate California’s extended foster care program and make recommendations for improvements to the program to the Legislature. This bill, and the work group it creates, will require stakeholders consider the ongoing challenges faced by California’s non-minor dependents and ways the state can better support their transition to adulthood. No youth should exit foster care into homelessness or extreme instability, this bill seeks to help ensure better outcomes for youth through evaluation of the existing extended foster care program and ongoing youth needs.”

Child Welfare Services System

California’s child welfare services (CWS) system is an essential component of the state’s safety net. Social workers in each county who receive reports of abuse or neglect, investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child’s well-being and avoid court involvement, or a child is removed and placed into foster care. In 2019, the state’s child welfare agencies received 477,614 reports of abuse or neglect. Of these, 69,652 reports contained allegations that were substantiated and 28,646 children were removed from their homes and placed into foster care via the CWS system. As of October 1, 2020, there were 60,045 children in California’s CWS system.

Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county’s juvenile dependency court. The dependency court holds legal jurisdiction over the child, while the child is served by a CWS system social worker. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. The CWS system provides multiple opportunities for the custody of a foster child, or the child’s placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child’s social worker to help provide the best possible services to the child. It is the state’s goal to reunify a foster child or youth with their biological family whenever possible. In instances where reunification is not possible, it is the state’s goal to provide a permanent placement alternative, such as adoption or guardianship, with the second highest placement priority of the CWS system being to unite children with other relatives or nonrelative extended family members.

Continuum of Care Reform (CCR)

The CCR is a system-wide effort to institute a series of reforms to California's CWS program. It is designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. CCR was designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care. Assembly Bill 403 (*Stone, Chapter 773, Statutes of 2015*) was the first of six CDSS-sponsored CCR bills and provided the statutory and policy framework to ensure services and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family.

Extended Foster Care

The intent of extended foster care is to bridge the gap between the intensive supervision of foster care and unsupervised adulthood by maintaining a safety net of support while providing the youth independence and additional educational or work opportunities. It was prompted by the recognition that many youth were unable to successfully transition from foster care or group care to adulthood without additional guidance and assistance.

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (*P.L. 110-351*) enabled states to expand the definition of a foster "child," by creating extended care for youth up to age 21. The federal law allows foster youth to remain in care past age 18 if they meet one of the following participation criteria: enrolled in high school or a high school equivalency credential; enrolled in college, community college, or vocational education; employed for at least 80 hours a month; participating in other qualifying activities or programs designed to remove barriers to employment; or medically exempt from meeting any of the other participation criteria.

In 2010, California enacted AB 12 (*Beall, Chapter 559, Statutes of 2010*), which permits foster youth to remain in extended foster care until age 21, under the same criteria as the federal statute. At the six month hearing prior to a youth turning 18 years old, the youth's social worker or probation officer must submit a transitional living plan to ensure that the youth will meet at least one participation criteria, listed above, if the youth plans to participate in extended foster care. The youth must also sign an agreement to remain in foster care within six months of turning 18, reside in an eligible placement, and agree to work with their social worker to meet the goals of their transitional living plan. Additionally, existing law allows qualifying nonminors who are former foster youth under the age of 21 to petition the court for re-entry into foster care to participate in extended foster care, as provided.

The University of Chicago's Chapin Hall conducted the California Youth Transitions to Adulthood Study (CalYOUTH) in 2018. This study evaluated the impacts of extended foster care on outcomes for transition age foster youth. The following were among the findings of the CalYOUTH study for each additional year a youth spent in extended foster care:

- Increased the probability that they completed a high school credential by about 8 percent;
- Increased their expected probability of enrolling in college by 10 to 11 percent;
- Decreased the odds that they became pregnant or impregnated an individual between the ages of 17 and 21 by 28 percent; and

- Decreased the odds of being homeless or couch-surfing between the ages of 17 and 21 by about 28 percent.

Youth participation in the program has exceeded initial expectations. Between July 2010 and July 2014, the number of youth age 18-20 in extended foster care in California increased by 211 percent, from 2,908 to 9,032, according to data compiled by UC Berkeley. As of January 1, 2020, there were an estimated 7,396 youth participating in extended foster care in California.

Access to Extended Foster Care

On March 7, 2019, the LAO issued a memorandum entitled “Older Youth Access to Foster Care,” which outlined four specific populations who, at the time the publication was released, were excluded from reentering foster care:

- Youth who have an open dependency petition, but reach 18 before resolution of their disposition hearing;
- Youth who successfully appeal the juvenile court’s dismissal of their dependency petition and reached age 19 before the resolution of their dependency appeal;
- Youth who are eligible for the Kinship Guardianship Assistance Payment Program (Kin-GAP) or Aid to Families with Dependent Children – Foster Care (AFDC-FC) but are receiving an alternative benefit; and,
- Youth whose parent or guardian do not provide support to the youth but still receive Adoption Assistance Program (AAP) payments or Kin-GAP on their behalf.

The LAO memorandum also stated that the number of youth affected by the provisions of AB 2337, discussed below, as introduced were not captured in current administrative datasets, but estimated between 50-120 foster youth throughout the state would become eligible for extended foster care if all four categories were added.

In 2018, AB 2337 (*Gipson, Chapter 539, Statutes of 2018*) was introduced to address the needs of each of the above populations. However, it was later amended to pertain only to youth who had not reached 21 years of age and who would have received Kin-GAP or AFDC-FC payments were it not for the fact that the youth is receiving Supplemental Security Income benefits or other aid from the federal Social Security Administrations.

In 2019, AB 748 (*Gipson, Chapter 682, Statutes of 2019*) addressed the eligibility for extended foster care of youth who have an open dependency petition, but reach 18 years of age before they obtain resolution of their disposition proceedings and are adjudged dependents of the juvenile court. AB 748 allowed those youth who turned 18 years of age with open dependency petitions to be adjudged dependents of the juvenile court after their 18 birthday, thus making them eligible for extended foster care, as provided. The LAO memorandum estimated between 40-83 foster youth throughout the state would become eligible for extended foster care under this change.

Impact of the COVID-19 Pandemic on NMDs

To help ensure the NMDs continue to be supported during the pandemic, the Governor’s April 17, 2020 Executive Order N-53-20 suspended the requirements for physical, in-person, face-to-

face application, meetings, visits and signature requirements for youth entering or reentering extended foster care. This executive order also provided a temporary extension for all NMDs currently in extended foster care who turn 21 on or after April 17, 2020 through June 30, 2020.

Additionally, CDSS advised counties to demonstrate flexibility when working with NMDs who have experienced disruptions in meeting extended foster care program eligibility criteria. The Legislature furthered the efforts to support NMDs during the pandemic via SB 115 (*Committee on Budget and Fiscal Review, Chapter 40, Statutes 2020*). This bill appropriated \$28,629,000 to fund the costs associated with continuing extended foster care assistance payments, until June 30, 2021, for any NMD who met eligibility requirements for the EFC program but then lost their employment or experienced a disruption in their education program as a result of the COVID-19 pandemic. This ensures NMDs who were participating in EFC prior to the pandemic are able to remain in EFC until June 30, 2021. Additionally, this funding allows counties to make monthly payments to, or on behalf of, any NMD who attained 21 years of age while in EFC on or after April 1, 2020 through June 30, 2021. This allows NMD who would have otherwise aged out of EFC during the pandemic to continue receiving monthly assistance payments and case management supports, helping them remain housed and supported during the pandemic.

Stakeholders had reported challenges with the implementation of these provisions related to NMDs around the state. Due to vetoed legislation related to NMDs and EFC during states of emergency (*SB 912, Beall, 2020*) there seemed to be varying levels of confusion in some counties regarding whether youth who turned 21 or were no longer meeting EFC participation requirements were able to continue receiving assistance payments and case management support after the executive order's June 30, 2020 expiration date. CDSS has since released two ACLs to address implementation concerns.¹

There are still challenges regarding those NMDs who turned 21 before the ACLs were released and because of the ongoing confusion were discharged from EFC. Stakeholders report that these youth have largely been identified by counties and their partners, and efforts to have them re-enter EFC system are ongoing. Furthermore, youth who turned 21 after the pandemic began but before the April 17 executive order are ineligible for this additional assistance. Some providers have found other funding sources to help keep these youth housed and supported. This bill would require the working group to consider the ongoing impact of the COVID-19 pandemic and the resulting economic impact on NMDs and how needs resulting from these changes may be better supported through changes to the EFC program.

California's NMDs who are attending have faced additional challenges with attainment of higher education due to the COVID-19 pandemic. At the start of the pandemic colleges were closing and CDSS reminded counties of their obligation to support all NMDs – including those in dormitory housing that may have closed. CDSS stressed the importance of having caseworkers reach out to youth to ensure they have the resources needed if they must move from campus, including funds for temporary relocation or access to alternative housing. If dorms closed and the youth residing there were displaced, counties were advised to continue the SILP payment. If a youth had to vacate their dorm or other housing due to colleges switching to remote education models, NMDs are responsible for informing the county of a new or temporary residence and counties are able to waive SILP inspections as a result of COVID-19 impacts.

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The impact of the COVID-19 pandemic on foster youth participating in higher education has not been limited to dorm closures or to challenges with their spring semester. As youth returned to college in the fall, the impact of the pandemic was ongoing. Stakeholders' report that these youth are struggling with access to needed technologies as college classes returned online this fall. During the course of the pandemic there has been anecdotal evidence that some youth have chosen to take time off from higher education either because they do not have the things they need to succeed in taking their classes online, such as a quiet place to attend their classes remotely and study or consistent broadband access, or because they have felt the need to take on employment during this challenging financial time. Initial data seems to support this, with enrollment data from California's Community Colleges suggesting a 15 percent decrease in foster youth enrollment from the fall of 2019 to the fall of 2020.

This bill requires the working group to consider a variety of challenges faced by NMDs in EFC in regards to higher education, as challenges in educational attainment and equity existed for foster youth prior to the pandemic. Since the bill also requires the working group to consider the impact and long-term effects of the pandemic, the impact of COVID-19 on NMD's ability to enroll in college and meet educational goals may also be considered.

Related/Prior Legislation:

SB 228 (Leyva, 2021) expands eligibility for priority enrollment for current and former foster youth at the University of California, California State University, and California Community Colleges. This bill also expands eligibility for a student support program for current and former foster youth at the CCCs. This bill is scheduled to be heard in this committee on March 23, 2021.

AB 748 (Gipson, Chapter 682, Statutes of 2019) allowed youth who are subject to an order for foster care before they reached 18 years of age, but not yet adjudged wards of the juvenile court before their 18th birthday, to be eligible for extended foster care benefits by requiring the court to hold a dispositional proceeding for a youth who is 18 years of age in order to be eligible for extended foster care benefits, if certain criteria is met as specified,

AB 2337 (Gipson, Chapter 539, Statutes of 2018) expanded the circumstances under which NMDs under the age of 21 who were previously a dependent or delinquent of the juvenile court may petition to assume dependency jurisdiction to include youth who would have otherwise been eligible but for receiving Supplemental Security Income benefits in lieu of foster care payments.

AB 604 (Gipson, Chapter 707, Statutes of 2017) required the court to assume transition jurisdiction over a youth who was arrested for or convicted of any nonviolent offense committed while they were a victim of human trafficking regardless of a court order vacating the underlying adjudication, as specified.

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 child welfare services system.

AB 212 (Beall, Chapter 459, Statutes of 2011) made various clarifying and substantive changes to the California Fostering Connections to Success Act, to ensure proper implementation and to comply with various provisions of federal law.

AB 12 (Beall, Chapter 559, Statutes of 2010) created the California Fostering Connections to Success Act, conformed state law to federal requirements to revise and expand programs and funding for certain foster and adopted children.

H.R. 6893 (McDermott, Public Law 110-351, 2008) the federal “Fostering Connections to Success and Increasing Adoptions Act of 2008,” revised and expanded programs and funding for certain foster and adopted children.

COMMENTS

It has been ten years since the implementation of AB 12 (*Beall, Chapter 559, Statutes of 2010*) created EFC in California. Over the course of this decade, California’s foster youth have chosen to partake in EFC in numbers that surpassed expectations and the CalYouth Study has shown the positive impact EFC has on those youth who chose to participate. The CalYouth Study also shows the continuing challenges faced by California’s NMDs who age out of the foster care system and the disparities that persist between them and their non-foster youth peers. When we consider the combined effects of these challenges with the short- and long-term impacts of the COVID-19 pandemic, it becomes clear that the opportunities for California’s NMDs looks quite different than they did in 2010.

Additionally, multiple important policy changes intended to meet the needs of NMDs in the areas of educational access and attainment and housing, as well as efforts to combat youth homelessness have occurred since the enactment of EFC. These policies changes have resulted in a sort of ad hoc attempt to address the continuing challenges faced by NMDs. This bill proposes to instead pull all stakeholders together to partake in a comprehensive, holistic assessment of EFC, the continuing challenges faced by NMDs, and their ongoing needs. The working group would then make recommendations to the Legislature in an effort to address potential shortfalls within the EFC program in a comprehensive manner and removing barriers to success in a coordinated effort.

To further clarify amendments made to this bill on March 16, 2021, this committee recommends the following changes:

Amendment One

Add the following to those organizations represented in the working group: the California Behavioral Health Directors Association; California Department of Developmental Disabilities; and the Office of Youth and Community Restoration.

Amendment Two

Amend reference to the recognized exclusive representative of county child welfare social workers on page 2, line 17-18 to read:

the recognized exclusive representative of county child welfare social workers and public health nurses

Amendment Three

Amend reference to homeless youth advocacy organizations on page 2, line 19 to read:

advocacy and legal service organizations serving homeless youth or youth at-risk of homelessness

Amendment Four

One page 3, line 9 replace “establishing” with “clarifying”

Amendment Four

On page 3, line 22, after Regional Centers, add:

housing service providers, county departments of mental health, and the Social Security Administration.

Amendment Five

On page 3, line 32, add:

and protection and enforcement of nonminor dependents’ housing rights.

Amendment Six

On page 3, lines 35-36, after including add:

sexual and

Amendment 7

On page 3, line 39, after finding, add:

housing services, assistance with accessing government benefits and health care services,

Amendment 8

Update the bill’s recommendation requirements to require the recommendations be provided to the legislature in a report.

POSITIONS

Support:

Alliance for Children’s Rights

California Court Appointed Special Advocates Association

California Coalition for Youth
California State PTA
SEIU California

Oppose:

None received.

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