

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2502 (Cervantes)
Version: June 22, 2022
Hearing Date: June 28, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Foster care

DIGEST

This bill extends juvenile court jurisdiction and support to nonminor dependents who turn 21 years of age during a statewide state of emergency declared by the Governor, as specified.

EXECUTIVE SUMMARY

Many children who become dependents of the juvenile dependency system remain so when they are, at least chronologically, no longer children; the juvenile court retains jurisdiction over certain dependents until they attain the age of 21 years. California extended its foster care program to youths between 18 and 21 years of age in 2010 – known as “nonminor dependents” – in recognition of the extreme hardship many former foster youths faced after being emancipated from the foster system at 18 years old; data showed that former foster youths were less likely to graduate from high school or college and were more likely to be homeless. Since 2010, the Legislature has passed additional measures to refine the foster care system for nonminor dependents and provide additional protections to help them ease into independence.

The COVID-19 pandemic has illuminated how disruptive emergencies can be for transition-aged youth who are shifting into independent living and do not have the same familial support that many of their peers have. When piled on top of the already-challenging task of facing adulthood unsupported, emergencies can be the difference in whether a young adult sinks or swims. This bill, which is substantially similar to SB 912 (Beall, 2020), seeks to ensure that foster youth do not automatically age out of the system during a state of emergency so that they can maintain necessary supports even in the midst of an ongoing crisis. It also allows them to continue to receive support during the emergency even if they are unable to meet the education or work requirements typically required of nonminor dependents.

This bill is sponsored by the author and supported by the National Association of Social Workers – California Chapter. There is no known opposition. This bill passed out of the Senate Human Services Committee with a 4-0 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes that the juvenile court has jurisdiction over:
 - a) A child who is subject to abuse or neglect. (Welf. & Inst. Code, § 300.)
 - b) a child when that child has committed acts that trigger delinquency jurisdiction rendering the child a ward. (Welf. & Inst. Code, §§ 601, 602.)
 - c) Any nonminor dependent, between the age of majority and 21 years, under specified conditions. A nonminor dependent under the jurisdiction of the juvenile court retains their legal decision-making authority as an adult, except as specified. (Welf. & Inst. Code, §§ 303, 388(e).)
- 2) Defines “nonminor dependent” for purposes of 1)(c) as a current foster youth or a nonminor under the transition jurisdiction of the court who is between 18 and 21 years old, turned 18 years old while under an order of foster care placement, is in foster care under the responsibility of the county welfare department, county probation department, or Indian Tribe, and is participating in a transitional independent living plan, as specified. (Welf. & Inst. Code, § 11400(v).)
- 3) Requires the court, before exercising continuing jurisdiction over a nonminor, to find that the nonminor has been informed of their options, including the benefits of remaining in foster care and the right to petition to reenter foster care by resuming dependency jurisdiction. (Welf. & Inst. Code, § 391(e).)
- 4) Requires the court to review the status of every minor or nonminor dependent in foster care at least once every six months, as specified. (Welf. & Inst. Code, § 366.)
- 5) States that the foundation and central unifying tool in child welfare services is the case plan, and requires the case plan, when appropriate, for a child who is 16 years of age or older and for a nonminor dependent, to include a transition to independent living plan (TILP), which is a written description of, among other things, the programs and services that will help the child, consistent with the child’s best interests, prepare for the transition from foster care to successful adulthood, and, in addition, whether the youth has an in-progress application pending for SSI benefits or for special immigrant juvenile status or other applicable application for legal residency and an active dependency case is required for that application. (Welf. & Inst. Code, § 16501.1(g)(16).)

- 6) Defines “state of emergency” as the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions other than conditions resulting from a labor controversy or conditions causing a “state of war emergency.” (Gov. Code, § 8558(b).)
- 7) Grants the Governor and upon the chief executives and governing bodies of political subdivisions of this state the emergency powers provided in the California Emergency Services Act and the power to provide for state assistance in the organization and maintenance of the emergency programs of such political subdivisions. (Gov. Code, § 8550(a).)
- 8) Empowers the Governor to proclaim a state of emergency in an area affected or likely to be affected when the Governor finds that conditions of disaster or extreme peril to the safety of persons and property within the state exist which, due to their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single jurisdiction and require the combined forces of a mutual aid region or regions to combat, as specified; and either:
 - a) The Governor is requested to do so by a mayor or chief executive or chairperson of the board of supervisors or county administrative officer, as applicable; or
 - b) The Governor finds that local authority is inadequate to cope with the emergency. (Gov. Code, § 8625.)

This bill:

- 1) Authorizes the juvenile court to retain jurisdiction over a nonminor dependent during a statewide state of emergency, or a state of emergency on a county-by-county basis.
- 2) Provides that a nonminor dependent who turns 21 years of age during a statewide state of emergency declared by the Governor shall continue to receive support as a nonminor dependent for six months from the date of the declaration, unless the nonminor objects.
 - a) If the statewide state of emergency poses continued risks to nonminor dependents after six months, the Governor may, under existing emergency powers, extend the period of support provided to the nonminor dependent for an additional time necessary to safely transition the nonminor dependents out of care, except those who object to continued jurisdiction.

- 3) Provides that a nonminor dependent who turns 21 years of age during a state of emergency declared by the Governor on a county-by-county basis shall continue to receive support as a nonminor dependent for six months from the date of the declaration, if the Statewide Automated Welfare System can perform the necessary automation to implement this requirement, unless the nonminor objects.
 - a) If the state of emergency poses continued risks on a county-by-county basis to nonminor dependents after six months, and if the Statewide Automated Welfare System can perform the necessary automation to implement this provision, the Governor may, under existing emergency powers, extend the period of support provided to the nonminor dependent for an additional time necessary to safely transition the nonminor dependents out of care, except those who object to continued jurisdiction.
- 4) Provides that, if a nonminor dependent is unable to meet the criteria to be a nonminor dependent – which include completing a secondary education or a program leading to an equivalent credential, enrolling in a postsecondary institution or vocational education, or being employed – during a state of emergency declared by the Governor, the nonminor dependent must continue to receive support for six months from the date of the declaration, unless the nonminor objects.
 - a) If the statewide state of emergency poses continued risks to nonminor dependents after six months, counties must continue to provide services to support nonminor dependents in 4) for an additional amount of time necessary to safety transition the nonminor dependents out of care, except those who object to continued jurisdiction.
- 5) Requires a foster youth’s TILP to identify likely emergency situations a child or nonminor dependent may experience, including, but not limited to, loss of housing, loss of employment, or a declared state of emergency that would affect the child or nonminor dependent; and for the TILP to include a plan to address those potential emergencies, including information related to unemployment benefits, emergency services, evacuation, and safety plans.

COMMENTS

1. Author’s comment

According to the author:

Assembly Bill 2502 will ensure that transitional independent living plans include emergency plans to address any issues that may arise for the child or non-minor during a state of emergency declared by the Governor. We must recognize the urgent need to ensure that our foster youth have the support to properly transition and provide essential safety nets for our most vulnerable.

We have an opportunity to strengthen our transitional plans for foster youth heading to independent adulthood, to ensure that they are protected while also providing care and support to help towards their adulthood to reduce poor outcomes. We must ensure that youth feel safe and cared for, especially when uncertainty and emergencies arise.

2. This bill allows nonminor dependents to remain under the jurisdiction of the juvenile court for at least six additional months if they turn 21 years of age during a state of emergency

In October 2008, the federal government enacted the Fostering Connections to Success and Increasing Adoptions Act,¹ which, among other things, offered additional funding to states that opted to extend foster care to youths from 18 to 21 years of age. Two years later, the Legislature enacted the California Fostering Connections to Success Act (the Act)² that authorized the juvenile courts to exercise jurisdiction over, and extend foster care benefits to, nonminor dependents between the ages of 18 to 21 who are eligible for specified public assistance and when one or more of the following conditions exist:

- The nonminor is working toward their high school education or an equivalent credential;
- The nonminor is enrolled in a postsecondary institution or vocational education program;
- The nonminor is participating in a program or activity designed to promote or remove barriers to employment;
- The nonminor is employed for at least 80 hours per month; and/or,
- The nonminor is incapable of doing any of the activities described above due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor.³

Extending foster care to nonminors until they reach 21 years of age helps foster youth with few, if any, adult supports ease into independence while they still have access to foster care resources. Yet even with extended foster care, an unexpected event can throw a nonminor dependent off course.

The COVID-19 emergency threatened to be just such an event. Governor Newsom declared the COVID-19 state of emergency on March 4, 2020.⁴ In a follow-up order, the Governor instructed the California Department of Social Services (CDSS) to take many actions to ease the burden of the pandemic on foster youth and nonminor dependents, including extending certain payments and suspending certain requirements for nonminor dependents to retain their status.⁵ The Legislature subsequently included

¹ P.L. 110-351 (2008).

² AB 12 (Beall, Ch. 559, Stats. 2010).

³ Welf. & Inst. Code § 11403.

⁴ Governor's Proclamation of a State of Emergency (Mar. 4, 2020).

⁵ Governor's Exec. Order No. N-53-20 (Apr. 17, 2020).

millions of dollars in the 2020 Budget Act for nonminor dependents who would have otherwise aged out of extended foster care access to supports and services until June 30, 2021.⁶

Also in 2020, the Legislature passed SB 912 (Beall, 2020), which, among other things, would have created an automatic six-month extension of foster care for nonminor dependents who turn 21 years of age during a state of emergency declared by the governor; the six-month period could be extended further. The bill imposed similar provisions for nonminor dependents residing in a county in which a county-specific state of emergency was declared, provided that the Statewide Automated Welfare System was able to perform the necessary automation. The bill also provided that nonminor dependents who were unable to satisfy the eligibility criteria for continued foster care during the state of emergency would continue to receive support for six months, which could be extended by the Governor. Governor Newsom vetoed the bill, stating in his veto message that “[b]ecause disasters and pandemics vary and are difficult to predict, this bill would obligate the State to a specific approach that may not always be the most prudent or effective.”⁷

This bill, like SB 912, would extend, for six months, with the option to extend further after that, foster care for nonminor dependents who turn 21 years of age during a state of emergency declared by the Governor for six months. The bill requires a six-month extension of jurisdiction for a county-by-county emergency only if the Statewide Automated Welfare System (SAWS) can perform the necessary automation to implement those provisions. The bill also allows a nonminor dependent who is unable meet the nonminor dependent eligibility to continue to receive support for six months from the declaration of emergency or longer if the Governor determines after the initial six months that the state of emergency poses continued risks to nonminor dependents to safely transition out of foster care. In all cases, the continued jurisdiction over the nonminor dependent requires the nonminor dependent’s consent, and they can opt out at any time. This portion of the bill is virtually unchanged from the portion of SB 912 that extended dependency jurisdiction for nonminor dependents who turned 21 during a state of emergency; the only difference is the provisions specifying that a 21-year-old could opt out of the extended jurisdiction.

The bill adds to SB 912 by requiring the transitional independent living plan (TILP) – a document created for foster youth starting at age 16 and updated until they exit foster care – to include emergency plans to address issues that may arise for the youth or nonminor dependent during a state of emergency. Amendments taken in the Senate Human Services Committee added specificity to this requirement, stating that the TILP’s emergency plans should include information on unemployment benefits, emergency services, evacuation information, and safety plans.

⁶ E.g., AB 89 (Ting, Ch. 7, Stats. 2020) (the Budget Act of 2020).

⁷ Governor’s veto message to Sen. on Sen. Bill. No. 912 (2019-2020).

3. Arguments in support

According to the National Association of Social Workers – California Chapter, writing in support:

[T]his bill requires the Transitional Independent Living Plan (TILP), by the time the youth reaches the age of 17, to provide emergency plans in the case of a state of emergency. The bill also permits the court to retain jurisdiction over a ward or nonminor dependent (NMD) who reaches 21 years of age while a statewide or county-by-county state of emergency is in effect, for six months from the date of the declaration.

Extended Foster Care was created because there was a need to help foster youth transition from care into independent living. These are some of our most vulnerable youth, and we must ensure they are taken care of during a state of emergency. Foster youth often struggle in adulthood and during a state of emergency, such as during the Covid-19 pandemic, we must ensure this population is cared for. NASW-CA respectfully asks for your “AYE” vote on this bill.

SUPPORT

National Association of Social Workers – California Chapter

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SB 1300 (Durazo, 2022) revises and expands provisions requiring a county to assist a youth approaching 18 years of age to determine eligibility, and to apply, for federal disability-related benefits to include assistance for nonminor dependents between the ages of 18 and 21 who remained in the foster system after reaching the age of majority. SB 1300 is pending before the Assembly Human Services Committee.

AB 2189 (Friedman, 2022) authorizes foster youth to remain in extended foster care beyond the age of 21 for the limited purpose of compliance with specified verifications of the information, documents, and services that are required to be provided by the county welfare department to the foster youth prior to emancipation, and requires a county to provide certain benefits to specified foster youth regardless of whether they

are living in approved placements. AB 2189 is pending before the Senate Appropriations Committee.

Prior Legislation:

SB 912 (Beall, 2020), would have made an nonminor dependent who turned 21 years of age between March 4, 2020, and June 30, 2021, eligible to continue receiving extended foster care support through June 30, 2021; and, for a state of emergency declared by the Governor on or after January 1, 2021, required that extended foster care support continue for six months from the date of the declaration for a nonminor dependent who turned 21 years of age while the state of emergency is in effect. SB 912 was vetoed by Governor Gavin Newsom, who stated in his veto message that, because disasters and pandemics vary and are difficult to predict, the bill would obligate the State to a specific approach that may not always be the most prudent or effective.

AB 1979 (Friedman, Ch. 141, Stats. 2020) addressed the housing needs of nonminor dependents in the child welfare system by expanding the definition of a supervised independent living setting (SILS), as provided, requiring counties to examine their ability to meet nonminor dependents' emergency housing needs, and preserving a nonminor dependent's transitional housing placement during an absence of up to 14 days, as provided.

PRIOR VOTES:

Senate Human Services Committee (Ayes 4, Noes 0)

Assembly Floor (Ayes 74, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 9, Noes 0)

Assembly Human Services Committee (Ayes 8, Noes 0)
