

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 867 (Friedman)  
Version: February 14, 2023  
Hearing Date: June 27, 2023  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Foster youth

**DIGEST**

This bill 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.

**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 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.

This bill continues the Legislature’s efforts to ensure that FCSA is properly implemented to provide necessary and integral support services to foster youth as they prepare and transition into adulthood in several ways. First, it allows juvenile courts to maintain jurisdiction over a nonminor dependent beyond the age of 21 years if the prerequisites to the termination of the court’s jurisdiction over the nonminor dependent have not been satisfied. Second, the bill requires verification that certain documents, information, and services have been provided to foster youth as they near aging out of foster care and then as they age out of foster care, including that the youth has applied for all public benefits to which they are entitled or specifically declined to do so. Third,

the bill requires a court, if the youth agrees, to maintain jurisdiction over them even after 21 years of age if they have not been provided with the required services, information, and documents prior to turning 21, including assistance in securing housing. In all cases, a court's extended jurisdiction is dependent upon agreement of the nonminor dependent.

This bill is sponsored by the Children's Law Center of California, Public Counsel, and the Youth Law Center, and is supported by California Alliance of Caregivers, the National Association of Social Workers - California Chapter, and Starting Over, Inc. There is no known opposition. The Senate Human Services Committee passed this bill with a vote of 5-0.

### **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) Requires the court, in regular status reviews after the youth has attained 16 years of age, to review the status of providing the youth certain information, documents, and services, including the social security card, birth certificate, driver's license or identification card; assistance obtaining employment; assistance applying to college

and financial aid; and information regarding financial literacy programs. (Welf. & Inst. Code, §§ 366.3, 391(a).)

- 6) Requires the court, in the last regular status review before the youth has attained 18 years of age, to review the status of providing the youth certain information, documents, and services, including the social security card, birth certificate, driver's license or identification card, Medi-Cal benefits card, proof of the youth's citizenship or legal residence, and an advance health care directive. (Welf. & Inst. Code, §§ 366.3, 391(b).)
- 7) Requires the court, in the last regular status review before the youth has attained 18 years of age and at every regularly scheduled review hearing thereafter, to review the status of providing certain information, documents, and services to the youth, including assistance obtaining employment, assistance applying for college and financial aid, information regarding financial literacy programs, assistance in maintaining close relationships, and the whereabouts of siblings, as provided. (Welf. & Inst. Code, §§ 366.3, 391(c).)
- 8) Prohibits a dependency court from terminating jurisdiction over a nonminor dependent until a hearing is conducted and the county welfare department does all of the following:
  - a) Ensures that the youth is present in court, unless the youth does not wish to appear in court, as provided.
  - b) Submits a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living case plan for the nonminor, as provided.
  - c) If the county welfare department recommends termination of the court's dependency jurisdiction, submits documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent.
  - d) If the nonminor has indicated that they do not want dependency jurisdiction to continue, provides that the report addresses the manner in which the nonminor was advised of their options, including the benefits of remaining in foster care, and of their right to reenter foster care prior to attaining 21 years of age. (Welf. & Inst. Code, § 391(d).)
- 9) 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 transitional independent living plan (TILP), 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 applications for legal residency and whether an active dependency case is required for that application. (Welf. & Inst. Code, § 16501.1(g)(16).)

10) Requires the California Department of Social Services (DSS) to establish procedures for county welfare departments to, among other things:

- a) Determine the time and manner for conducting disability screenings for children in the custody of the county who may be eligible for social security or Supplemental Security Income/State Supplementary Payment benefits (collectively, SSI benefits).
- b) Assist in the application process for SSI benefits for each child who has been determined to be eligible.
- c) Request reconsideration and appeal adverse decisions where appropriate.
- d) Inform parents and caretakers, when the child leaves foster care, of potential eligibility for SSI benefits for any child not receiving benefits but who may be eligible.
- e) Maximize the amount of federal benefits received for the current maintenance of children in the county's custody.
- f) Inform foster youth of their rights and responsibilities for the continued receipt of SSI benefits, the assistance that may be available if the youth have problems with receiving their benefits, and the process for transferring accumulated benefits. (Welf. & Inst. Code, § 13752.)

11) Requires a county, when a foster youth who is receiving SSI payments is approaching their 18th birthday, to do all of the following:

- a) Provide information to the youth regarding the federal requirement that the youth establish continuing disability as an adult, if necessary, in order for SSI benefits to continue beyond their 18th birthday.
- b) Provide information to the youth regarding the process for becoming their own payee, or designating an appropriate representative payee if benefits continue beyond their 18th birthday, and regarding any SSI benefits that have accumulated on their behalf.
- c) Assist the youth, as appropriate, in fulfilling the requirements of a) and b). (Welf. & Inst. Code, § 13753.)

This bill:

1) Allows the juvenile court to retain jurisdiction over any ward or dependent of the court after reaching 21 years of age for limited purposes, as follows:

- a) Unless the nonminor objects to continued jurisdiction, the court may not terminate jurisdiction over a nonminor dependent unless the child welfare department has submitted a report to the court verifying that specified information, documents, and services, both under existing law, as well as additional items required by this bill, including under 7), have been provided

- to the nonminor or if the nonminor cannot be located, verifying that efforts have been made to locate the nonminor.
- b) Unless the nonminor objects to continued jurisdiction, the court may not terminate jurisdiction over a nonminor dependent who has not secured housing, until the county welfare department has submitted a report to the court verifying that the welfare department made referrals to transitional housing or provided assistance in securing other housing.
  - c) Notwithstanding the age restrictions in any law providing for support, services, and benefits, the nonminor dependent must continue to receive the support and services they were entitled to receive immediately prior to reaching 21 years of age, and benefits equal to the amount of the Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits provided until jurisdiction has been terminated.
- 2) Clarifies that continuing jurisdiction for a nonminor dependent after 21 years of age under 1) cannot be construed to continue any terms or conditions of probation.
  - 3) Clarifies that, when a dependency court terminates dependency, delinquency, or transition jurisdiction over a nonminor dependent, the nonminor dependent remains under the general jurisdiction of the court until they attain 21 years of age in order to allow for a petition to resume jurisdiction.
  - 4) Adds the following verification requirements to the information, documents, and services that are required to be included in the report submitted by the county welfare department at the first regularly scheduled review hearing after a dependent child has reached 16 years of age:
    - a) That the TILP is included in the case plan, as specified, how the child welfare department has complied with requirements of the Foster Care Social Security and SSI Assistance Program, and whether the child has a pending application for SSI or special immigrant juvenile status or residency and the status of those applications, if applicable.
    - b) That documentation in the case plan includes that a consumer credit report was requested annually, and that the child has received a copy of their credit report and assistance to resolve any problems or errors found in the credit report.
    - c) That the case plan identifies persons who will be responsible for assisting the child with applications for postsecondary education and related financial aid, as specified.
    - d) That the case plan includes the health and education summary, as described.
  - 5) Adds the health and education summary to the list of information, documents, and services that must be included in the report submitted to the court by the county welfare department at the last regularly scheduled review hearing before a dependent child reaches 18 years of age.

- 6) Adds, to the list of information, documents, and services that are required to be included in the report submitted by the county welfare department at the last regularly scheduled review hearing held before a dependent child reaches 18 years of age and at every regularly scheduled review hearing thereafter, verifications that the following was provided or occurred:
  - a) Assistance in maintaining relationships with individuals important to the nonminor, based on the nonminor's wishes, as opposed to their best interest.
  - b) Screening for eligibility for all public benefits and applied for all public benefits for which they may be eligible; if a discharge from foster care is contemplated at the hearing or prior to the next review hearing, there must be verification that the child or the child's caregiver has applied for all public benefits for which the child may be eligible. If the child or caregiver does not submit any or all of those applications, requires the county to submit written verification, signed by the child or caregiver, that the county welfare department offered assistance in submitting applications and that the child or caregiver made a knowing and informed decision not to submit the applications.
  - c) The TILP has been included in the case plan, as specified, that the county has complied with the Foster Care Social Security and SSI Assistance Program, as specified, and whether the child has a pending application for SSI or special immigrant juvenile status or residency and the status of those applications, if applicable.
  - d) The case plan includes documentation showing a consumer credit report was requested annually and that the child has received a copy of their credit report and assistance to resolve any problems or errors found in the credit report.
  - e) The case plan identifies the person or persons who will be responsible for assisting the youth with applications for postsecondary education and related financial aid, as specified, and whether the youth has been provided that assistance.
- 7) Eliminates from the list of information, documents, and services that are required to be provided to the nonminor dependent prior to the court terminating dependency jurisdiction over a nonminor dependent who has reached 18 years of age, or in the case of a youth who, after reasonable efforts by the county welfare department, cannot be located, a health and education summary, as specified.
- 8) Adds, to the information, documents, and services that are required to be included in the report submitted by the county welfare department prior to the court terminating dependency jurisdiction over a nonminor dependent who has reached 18 years of age, or in the case of a youth who, after reasonable efforts by the county welfare department, cannot be located, a requirement that the county welfare department verify the efforts made to ensure that the youth has applied for all public benefits for which they may be eligible. If the youth does not submit any or

all of those applications, the county must submit written verification, signed by the youth, that the county welfare department offered assistance in submitting applications and that the youth made a knowing and informed decision not to submit the applications.

9) Applies the requirements in 8) to the probation department at the hearing for a ward who is 18 years of age or older and subject to an order for foster care placement.

10) Makes nonsubstantive technical and conforming changes.

### COMMENTS

#### 1. Author's comment

According to the author:

California's Extended Foster Care (EFC) program has demonstrated numerous benefits for the young adults who participate, including improvements in education, employment, and social support. However, the research has also shown that over 35 percent of youth reported that they experienced homelessness while actively enrolled in the EFP program.

The promise and potential of the EFC program falls short when we fail to connect enrollees to the services and supports that they are entitled to under the law. Both federal and state law include protections to ensure that enrollees leave foster care with a transition plan that provides the foster youth safety, stability, and an opportunity to thrive. When a county fails to meet their obligation under the law and provide assistance to secure housing, youth are exiting the system to homelessness.

AB 867 ensures that foster youth experiencing housing instability have access to services and supports while in the system, and provides safeguards to ensure that they can transition to independence safely.

#### 2. Background on California's expansion of dependency jurisdiction to nonminor dependents between 18 and 21 years of age

In October 2008, the federal government enacted the Fostering Connections to Success and Increasing Adoptions Act,<sup>1</sup> 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

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<sup>1</sup> P.L. 110-351 (2008).

Act)<sup>2</sup> 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.<sup>3</sup>

In the years after the Act's passage, the Legislature passed several additional measures to refine, and close gaps in, the laws governing foster care for youths between 18 and 21 years of age.<sup>4</sup>

For the last several years, California's population of children and youths in foster care has been between 50,000 and 60,000.<sup>5</sup> Prior to the Act, the statistics surrounding 18-year-olds' emancipation from foster care were bleak: foster youth, when compared to other young adults of the same age and race, were less likely to complete high school, attend college, or be employed, and were at a higher risk of becoming homeless, arrested, or incarcerated.<sup>6</sup> The Act and related subsequent legislation were intended to provide foster youth with the option of a smoother transition to independent adulthood. Since the Act's passage, the number of foster youth between 18 and 21 years of age has increased considerably, from under 2,500 in 2010 to 7,121 in January 2023.<sup>7</sup>

Despite these reforms, former foster youth still face significant barriers, particularly with respect to securing housing after they transfer out of the state's care. A survey conducted by the University of Chicago's Chapin Hall reported that more than 25 percent of former foster youth in California reported experiencing at least one night of homelessness in the past two years, while nearly 30 percent said they had couch surfed

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<sup>2</sup> AB 12 (Beall, Ch. 559, Stats. 2010).

<sup>3</sup> Welf. & Inst. Code § 11403.

<sup>4</sup> See AB 212 (Beall, Ch. 459, Stats. 2011), AB 1712 (Beall, Ch. 846, Stats. 2012), AB 787 (Stone, Ch. 487, Stats. 2013), AB 2454 (Quirk-Silva, Ch. 769, Stats. 2014), AB 2337 (Gipson, Ch. 539, Stats. 2018), AB 748 (Gipson, Ch. 682, Stats. 2019).

<sup>5</sup> California Child Welfare Indicators Project, University of California at Berkeley, Report: Children in Foster Care, CWS/CMS 2022 Quarter 4 Extract (Jun. 12, 2023), available at <https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTSG/r/ab636/s>. All links in this analysis are current as of June 23, 2023.

<sup>6</sup> See Public Policy Institute of California, *Foster Care in California* (2010).

<sup>7</sup> California Child Welfare Indicators Project, *supra*.



by staying with friends because they lacked housing.<sup>8</sup> The study questioned “the wisdom of abruptly curtailing services for these young people when they reach their 21st birthday”<sup>9</sup> and stated “when COVID-19 is behind us, it will still be the case that many young adults in care could potentially benefit from ongoing care past their 21st birthday.”<sup>10</sup>

3. This bill seeks to provide better support for nonminor dependents emancipating out of foster care

This bill seeks to better support youth – dependents and wards – aging out of foster care, in two important ways. First, it requires verification that certain documents, information, and services have been provided to foster youth as they near aging out of foster care and then as they age out of foster care. This includes verification that the youth has been screened for eligibility for all public benefits and applied for all public benefits for which they may be eligible; that the TILP is included in the case plan, as specified; that the county has complied with the Foster Care Social Security and Supplemental Security Income Assistance Program, as specified; and whether the child has a pending application for SSI or special immigrant juvenile status or residency and the status of those applications, if applicable.

Second, the bill requires a court, if the youth agrees, to maintain jurisdiction over a youth even after they turn 21 if they have not been provided with required services, information, and documents before their 21st birthday. In particular, in order to prevent homelessness immediately after the termination of juvenile court jurisdiction, the bill provides for continued jurisdiction of a youth who has not secured housing until the county welfare department has submitted a report to the court verifying that efforts were made to assist the youth in securing housing, which could include referrals to transitional housing, if available, or assistance in securing other housing.

These provisions, taken together, are all designed to help youth who have emancipated out of foster care – and thus who may have little or no adult support in their lives – receive additional support and, if needed, more time in transitioning to adulthood and full independence. According to the Youth Law Center, the sponsor of the bill:

[T]here is no process in place to remedy the situation when the child county welfare agency does not provide youth with the documents, information, and services needed to transition successfully to independence. The law is unclear regarding whether a court can maintain jurisdiction over a youth once they turn 21 when the county child welfare

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<sup>8</sup> Courtney, et al., *Findings from the California Youth Transitions to Adulthood Study (CalYOUTH): Conditions of youth at age 23* (2020) Chapin Hall at the University of Chicago, pp. 18-19, available at [https://www.chapinhall.org/wp-content/uploads/CY\\_YT\\_RE1020.pdf](https://www.chapinhall.org/wp-content/uploads/CY_YT_RE1020.pdf).

<sup>9</sup> *Id.* at p. 156.

<sup>10</sup> *Id.* at p. 157.

agency has failed to provide exiting youth with critical support that enables youth to secure education, employment, and most importantly, housing. Appropriate enforcement mechanisms, including keeping a court case open past age 21, will ensure that the necessary planning begins early, so that youth are less likely to exit the foster care system to homelessness.

AB 867 will ensure accountability with current law and successful discharge planning by (1) requiring the county welfare department to verify efforts to ensure youth have access to relevant programs, services, or documents before exiting the system, and (2) clarifying that the court may keep a case open past age 21 if the requirements to terminate jurisdiction have not been satisfactorily met.

4. This bill is similar to, but narrower than, a bill vetoed last year

Last year, the Legislature enacted AB 2189 (Friedman, 2022), which was substantially similar to this bill. Both bills authorized foster youth to remain in extended foster care beyond the age of 21 years for the limited purpose of compliance with specified verifications by the county prior to termination of dependency. AB 2189 was broader, however, in that it required counties to provide certain benefits, such as clothing allowances and benefits for pregnant foster youth regardless of their placement.

Governor Newsom vetoed AB 2189, stating in his veto message:

This bill would establish parameters by which a foster youth could remain in the foster care system beyond the age of 21.

It is important that foster youth receive the services to which they are entitled to help them successfully transition to independence. I applaud the author's intent in seeking to ensure those services are appropriately provided prior to the foster youth aging out of the program. However, extending foster care beyond the age of 21 raises policy and implementation considerations. Additionally, millions of dollars will be needed to successfully implement this policy, but were not included in the budget.

With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending, particularly spending that is ongoing. We must prioritize existing obligations and priorities, including education, health care, public safety and safety-net programs.

The Legislature sent measures with potential costs of well over \$20 billion in one-time spending commitments and more than \$10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process. For these reasons, I cannot sign this bill.

### **SUPPORT**

Children’s Law Center of California (co-sponsor)  
Public Counsel (co-sponsor)  
Youth Law Center (co-sponsor)  
California Alliance of Caregivers  
National Association of Social Workers – California Chapter  
Starting Over, Inc.

### **OPPOSITION**

None known

### **RELATED LEGISLATION**

Pending Legislation: SB 9 (Cortese, 2023) creates a three-year pilot program for DSS to extend foster care to 22 years of age for nonminor dependents who are experiencing homelessness or at reasonable risk of homelessness if they are not under the jurisdiction of the juvenile court. SB 9 is pending before the Assembly Judiciary Committee.

Prior Legislation:

SB 1300 (Durazo, 2022) would have extended county Supplemental Security Income (SSI) screening and application duties for foster youth to include nonminor dependents. SB 1300 died in the Assembly Appropriations Committee.

AB 2189 (Friedman, 2022) was similar to this bill. AB 2189 was vetoed by Governor Newsom; see Comment 4 for a further discussion of the veto and the differences between AB 2189 and this bill.

AB 2306 (Cooley, 2022) would have expanded and modernized the Independent Living Program (ILP) to include current and former foster youth up to 22 years of age, and, subject to an appropriation and federal approval, up to age 23, and expanded the services for which counties could provide stipends to assist youth with specified independent living needs to include former foster youth up to 25 years of age, as specified. AB 2306 was vetoed by Governor Gavin Newsom, who stated in his veto message that “[w]hile an expanded ILP would benefit more transition-aged youth,

millions of dollars would be needed to implement the proposed expansion, and funds were not provided in the budget for this purpose.”

SB 912 (Beall, 2021), would have made a 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.

SB 100 (Hurtado, 2021) would have required the DSS to convene a working group of representatives from specified state agencies and stakeholders to examine the extended foster care program and make recommendations for improvements to the program, and to submit a report to the Legislature with recommendations on or before July 1, 2022. SB 100 died in the Senate Appropriations Committee.

AB 748 (Gipson, Ch. 682, Stats. 2019) provided that a youth who was subject to an order for foster care before they reached 18 years of age, but was not yet adjudged a dependent of the juvenile court before reaching their 18th birthday, is eligible for extended foster care benefits.

AB 2337 (Gipson, Ch. 539, Stats. 2018) expanded the circumstances under which a nonminor dependent under the age of 21 who was previously a dependent or delinquent of the juvenile court may petition to assume dependency jurisdiction to include a youth who met all of the existing eligibility requirements, except received SSI benefits in lieu of foster care payments.

**PRIOR VOTES:**

Senate Human Services Committee (Ayes 5, Noes 0)  
Assembly Floor (Ayes 80, Noes 0)  
Assembly Appropriations Committee (Ayes 15, Noes 0)  
Assembly Judiciary Committee (Ayes 11, Noes 0)  
Assembly Human Services Committee (Ayes 8, Noes 0)

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