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AB-2247 Foster youth: case plan: placement changes. (2017-2018)

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Assembly Bill No. 2247

CHAPTER 674

An act to add Section 16010.7 to the Welfare and Institutions Code, relating to foster youth.

[Approved by Governor September 22, 2018. Filed with Secretary of State September 22, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2247, Gipson. Foster youth: case plan: placement changes.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. In order to be eligible for AFDC-FC, existing law requires, in pertinent part, a child to be placed in one of several specified placements. Existing law sets forth the rights of a minor in foster care, including, among other rights, the right to be involved in the development of and to review his or her own case plan and plan for permanent placement, and, if he or she is 12 years of age or older and in a permanent placement, the right to receive information about his or her out-of-home placement and case plan, including the right to be told of changes to the plan.

Existing law establishes the Office of the State Foster Care Ombudsperson as an autonomous entity within the State Department of Social Services for the purpose of providing children who are placed in foster care with a means to resolve issues related to their care, placement, or services. Existing law requires the office to investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, that relate to their care, placement, or services.

This bill would require, prior to making a change in the placement of a dependent child, a social worker or placing agency to develop and implement a placement preservation strategy to preserve the dependent child's placement, and if a placement change is necessary, would further require a social worker or placing agency to provide 14 days prior notice of the change, as specified. The bill would prohibit placement changes from occurring during specified hours, except as specified. The bill would, if a complaint alleging that a placement change occurred in violation of these requirements is made to the Office of the State Foster Care Ombudsperson and that complaint is investigated, require the office to provide the findings of the investigation to the county child welfare director, or his or her designee, for the purposes of training, technical assistance, and quality improvement. The bill would express the intent of the Legislature with regard to these provisions and would make certain findings and declarations.

By increasing the duties of county social workers and placing agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 16010.7 is added to the Welfare and Institutions Code, to read:

16010.7. (a) It is the intent of the Legislature to prevent children or youth in foster care from experiencing unnecessary or abrupt placement changes that negatively impact their well-being or sense of security. It is the intent of the Legislature to preserve and strengthen the placement of a child or youth whenever possible. It is also the intent of the Legislature to ensure that placement changes do not occur due to gender, gender identity, race, or cultural differences. The Legislature finds and declares that unnecessary or abrupt placement changes undermine the essential duties that resource families have an obligation to uphold.

(b) Prior to making a change in the placement of a dependent child, a social worker or placing agency shall develop and implement a placement preservation strategy, in consultation with the dependent child's child and family team pursuant to clause (ii) of subparagraph (A) of paragraph (4) of subdivision (a) of Section 16501, to preserve the dependent child's placement. The strategy may include, but is not limited to, conflict resolution practices and facilitated meetings.

(c) A social worker or placing agency shall include a strategy developed and implemented pursuant to subdivision (b) within the dependent child's case notes in the statewide child welfare information system.

(d) For purposes of this subdivision, the following definitions shall apply:

(1) "Child and family team" has the same meaning as defined in Section 16501.

(2) "Conflict resolution practices" means a process designed to begin a dialogue to address conflict or concerns and identify agreements or solutions, which may be incorporated as part of a meeting of a dependent child's child and family team.

(3) "Facilitated meeting" means a facilitated process designed to acknowledge, address, and respond to the underlying needs of all parties, that may include, but is not limited to, a meeting of a dependent child's child and family team.

(e) If, after implementing the placement preservation strategy developed and implemented pursuant to subdivision (b), the social worker or placement agency finds that a placement change is necessary, the social worker or placing agency shall serve written notice on all of the following parties at least 14 days prior to the change:

(1) The dependent child's parent or guardian.

(2) The dependent child's caregiver.

(3) The dependent child's attorney.

(4) The dependent child, if he or she is 10 years of age or older.

(f) A placement change shall not take place between 9 p.m. and 7 a.m., except by the mutual agreement of all of the following persons:

(1) The dependent child, if he or she is 10 years of age or older, or the representative of the dependent child, if he or she is under 10 years of age.

(2) The dependent child's current caregiver.

(3) The dependent child's prospective caregiver.

(4) The dependent child's social worker.

(g) If a complaint is made to the Office of the State Foster Care Ombudsperson alleging that a placement change occurred in violation of this section, and that complaint is investigated pursuant to Section 16164, the office shall provide the findings of the investigation to the county child welfare director, or his or her designee, for the purposes of training, technical assistance, and quality improvement.

(h) Notwithstanding subdivisions (b) and (e), a social worker or placing agency may change a dependent child's placement without fulfilling the requirements of subdivisions (b) and (e) in either of the following circumstances:

(1) If it is determined that remaining in the existing placement or providing prior written notice of that placement change poses an imminent risk to the health or safety of the dependent child or other children in the home or facility.

(2) If either the dependent child's child and family team and the dependent child, if the dependent child is 10 years of age or older, or the dependent child's child and family team and the representative of that dependent child, if the dependent child is less than 10 years of age, unanimously agree to waive the requirements described in subdivisions (b) and (e).

(i) This section shall apply only to children and youth for whom the dependency court has entered a judgment pursuant to Section 360.

(j) This section does not apply to a nonminor dependent, as defined in subdivision (v) of Section 11400, who is placed in a Transitional Housing Placement program for nonminor dependents, as defined in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1559.110 of the Health and Safety Code, or a supervised independent living placement, as defined in subdivision (w) of Section 11400.

(k) This section does not apply to a planned placement change as informed by the dependent child's child and family team and that is described in the dependent child's case plan.

SEC. 2. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.