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AB-1061 Foster care. (2019-2020)

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Assembly Bill No. 1061

CHAPTER 817

An act to amend Section 16010.7 of the Welfare and Institutions Code, relating to foster care.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, Gipson. Foster care.

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, their own case plan and plan for permanent placement.

Prior to making a change in the placement of a dependent child, existing law requires a social worker or placing agency to develop and implement a placement preservation strategy to preserve the dependent child's placement. If a placement change is necessary, existing law requires the social worker or placing agency to serve written notice of that change on specified parties at least 14 days prior to the change. Existing law requires complaints under these provisions to be investigated by the Office of the State Foster Care Ombudsperson, and requires the office to provide the findings of an investigation to the county child welfare director or their designee.

This bill would delete references to placing agencies, would extend the application of these provisions to probation-supervised youth in foster care placement, and make related changes. The bill would also require a social worker or probation officer to, among other things, develop with the caregiver a placement preservation strategy. The bill would also require a social worker or probation officer to notify specified parties at least 14 calendar days prior to a placement change if the social worker or probation officer reserves a placement change request from the caregiver or provider or otherwise finds that a foster care placement change is necessary. If a complaint is investigated by the office under these provisions, the bill would also require the office to provide the findings of the investigation to the chief probation officer or the chief probation officer's designee, as applicable. The bill would also exempt placement changes made under certain circumstances, including hospitalizations, from these provisions.

By adding to the duties of probation officers, 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 of the Welfare and Institutions Code is amended to read:

16010.7. (a) It is the intent of the Legislature to prevent children or youth in foster care placement from experiencing unnecessary or abrupt foster care placement changes that negatively impact their well-being or sense of security. It is the intent of the Legislature to preserve and strengthen the foster care placement of a child or youth whenever possible. It is also the intent of the Legislature to ensure that foster care placement changes do not occur due to gender, gender identity, race, or cultural differences. The Legislature finds and declares that unnecessary or abrupt foster care placement changes undermine the essential duties that foster caregivers have an obligation to uphold. It is the intent of the Legislature that prior to a caregiver or provider requesting a child or youth to be removed from the caregiver's or provider's care, the caregiver or provider shall participate in a placement preservation strategy meeting.

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

(c) A social worker or probation officer shall include the strategy developed and implemented pursuant to subdivision (b) within the child's contact notes or equivalent 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 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 child and family team.
- (4) "Representative for a child under 10 years of age" means the attorney or another individual as authorized by the child's attorney.

(e) If, after implementing the placement preservation strategy developed pursuant to subdivision (b), the social worker or probation officer receives a placement change request from the caregiver or provider, or otherwise finds that a foster care placement change is necessary, the social worker, probation officer, or placement agency shall serve written notice on all of the following parties at least 14 calendar days prior to the change:

- (1) The child's parent or guardian.
- (2) The child's caregiver.
- (3) The child's attorney.
- (4) The child, if the child is 10 years of age or older.

(f) An unplanned foster care 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 child, if the child is 10 years of age or older, or the representative of the child, if the child is under 10 years of age.
- (2) The child's current caregiver.
- (3) The child's prospective caregiver.
- (4) The child's social worker or probation officer.

(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, as applicable, the county child welfare director, or the director's designee, or to the chief probation officer, or the chief probation officer's designee, for the purposes of training, technical assistance, and quality improvement.

(h) Notwithstanding subdivisions (b) and (e), a social worker or probation officer may change a child's foster care 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 foster care placement or providing prior written notice of that foster care placement change poses an imminent risk to the health or safety of the child, youth, other children, or others in the home or facility.

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

(i) This section applies to children and youth for whom the juvenile court has entered a judgment pursuant to Section 360 or 727. This section does not apply to a change in placement pursuant to Section 777 or due to a hospitalization.

(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 child and family team or that is as described in the 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.