

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

SB 1300 (Durazo)
Version: February 18, 2022
Hearing Date: April 5, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Foster youth: Supplemental Security Income

DIGEST

This bill 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.

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.

Current law also requires a county to provide certain assistance to disabled foster youths who may be eligible for benefits under the federal Social Security Act (collectively, SSI benefits). Before a foster youth attains 18 years of age, the county must determine if the youth is likely eligible for SSI benefits and, if so, provide specified assistance with applying for benefits, receiving SSI benefits payments, and helping the youth maintain eligibility. Though this program pre-dates the expansion of foster care to youths between 18 and 21 years of age, the program was not modified to account for the differing needs of those nonminor dependents.

This bill modifies the SSI benefits program to clarify a county's obligation with respect to nonminor dependents who may be, or are, eligible for SSI benefits as a result of a disability. The bill's provisions include advancing the SSI benefits screening process, clarifying a county's obligation to assist a nonminor dependent in applying for SSI benefits, clarifying a county's obligations with respect to serving as a nonminor dependent's representative payee for SSI benefits, and requiring a county to provide certain information to a nonminor dependent relating to offsetting rules for SSI benefits when the nonminor dependent receives benefits from multiple sources. The author has agreed to accept minor technical amendments to ensure that the statute's terminology is consistent throughout and to clarify a county's obligation with respect to foster youth under the supervision of a tribal organization.

This bill is sponsored by the Alliance for Children's Rights and the Youth Law Center, and supported by the California Alliance of Caregivers, the California Alliance of Child and Family Services, the California Women's Law Center, the Coalition of California Welfare Rights Organization, Community Legal Aid SoCal, and the National Youth Law Center. There is no known opposition. This bill passed out of the Senate Human Services Committee with a vote of 4-0.

PROPOSED CHANGES TO THE LAW

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. (Welf. & Inst. Code, § 202.)
- 2) Establishes a system of juvenile dependency for children who are, or are at risk of, being physically, sexually, or emotionally abused, being neglected or being exploited, to ensure their safety, protection, and physical and emotional well-being, as specified. (Welf. & Inst. Code, §§ 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. (Welf. & Inst. Code, § 300.2.)
- 4) Defines a "nonminor dependent as a foster youth who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court, and who satisfies all of the following criteria:
 - a) The nonminor dependent has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 21 years of age.

- b) The nonminor dependent is in foster care under the placement and care responsibility of the county welfare department, county probation department, or specified Indian tribal organizations.
 - c) The nonminor dependent has a transitional independent living case plan as required under federal and state law. (Welf. & Inst. Code, § 11400(v).)
- 5) Extends the jurisdiction of the juvenile court to persons between 18 and 21 years of age, as follows:
- a) The juvenile court may have within its jurisdiction any nonminor between the age 18 and 21 years.
 - b) The juvenile court has jurisdiction over any nonminor dependent, as defined above in 4).
 - c) Any nonminor who is not yet 21 years of age and who exited foster care at or after the age of majority may petition the court to resume dependency jurisdiction over themselves. (Welf. & Inst. Code, §§ 303(a)-(c), 388(e).)
- 6) 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).)
- 7) Provides that a nonminor dependent receiving specified aid and between the ages of 18 and 21 qualifies for placement and care by being under a foster care placement by the juvenile court or a voluntary reentry agreement, and shall remain eligible for specified benefits, when one or more of the following conditions exists:
- a) The nonminor is completing secondary education or a program leading to the equivalent credential;
 - b) The nonminor is enrolled in an institution that provides postsecondary or vocational education;
 - c) The nonminor is participating in a program or activity designed to promote, or remove barriers to, employment;
 - d) The nonminor is employed at least 80 hours per month;
 - e) The nonminor is incapable of doing any of the activities in a)-d) due to a medical condition as supported by regularly updated information. (Welf. & Inst. Code, § 11403.)
- 8) Establishes the Foster Care Social Security and Supplemental Security Income Assistance Program. (Welf. & Inst. Code, div. 9, pt. 3, ch. 6.2, §§ 13750.)
- 9) Requires the California Department of Social Services (CDSS) 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.)
- 10) 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.)
- 11) Requires the county to apply to be appointed representative payee of a child beneficiary in its custody when no appropriate party is able to serve. (Welf. & Inst. Code, § 13754(b)(1).)
- 12) Requires a county, when a child beneficiary reaches 18 years of age and elects to remain in the custody of the county as a nonminor dependent, to provide information to the youth regarding the process for becoming their own payee and to assist the youth in becoming their own payee, unless becoming their own payee is contrary to the best interests of the youth. In the event that a youth is unable to serve as their payee after attaining 18 years of age, the county shall assist the youth in finding and designating an appropriate representative payee. (Welf. & Inst. Code, § 13754(b)(2).)
- 13) Requires the county, in its capacity as representative payee, to establish an account for each child in its custody and establish procedures for disbursing the money in the accounts, maintaining records for the accounts, and ensuring that the funds are used for the benefit of the child. (Welf. & Inst. Code, § 13754(c).)

- 14) Requires that every youth who is in foster care and nearing emancipation to be screened by the county for potential eligibility for SSI benefits. The screening must occur when the foster youth is between 16 years and six months and 17 years and six months of age; to the extent possible, the application should be timed to allow for a determination of eligibility prior to the youth's emancipation. (Welf. & Inst. Code, § 13757(a).)
- 15) Requires the county, in carrying out the requirements in 14) with respect to a foster youth receiving federally funded Aid to Families with Dependent Children – Foster Care (AFDC-FC), to forego the federally funded AFDC-FC benefits and instead use nonfederal AFDC-FC resources for the month of the application to ensure that the foster youth meets the SSI eligibility requirements. When a nonminor dependent has been approved for SSI benefits but receives a federally funded AFDC-FC benefit that exceeds the SSI payment, causing the SSI payment to be placed in suspense, the county shall, in at least one month of every 12-month period, forego the federally funded AFDC-FC benefit and instead use nonfederal AFDC-FC resources to supplement the SSI benefit received by the youth that month; the county shall also inform the Social Security Administration that the youth is not receiving any federal financial participation during that month to ensure that the youth receives SSI benefits that month. (Welf. & Inst. Code, § 13757(b) & (c).

This bill:

- 1) Amends the county's obligations with respect to a foster youth who is receiving SSI benefits and approaching their 18th birthday as follows:
 - a) Clarifies that the required tasks must be accomplished at least six months before the youth's 18th birthday.
 - b) Adds a requirement that the county provide information to the youth about what effect, if any, the youth's foster care benefits may have on the amount of the youth's SSI payments.
 - c) Adds a provision that if a youth, upon attaining 18 years of age, elects to remain in foster care as a nonminor dependent, the county shall carry out the requirements in 11)-13), above and as modified by this bill.
- 2) Amends the county's obligations with respect to a nonminor dependent who is still in foster care and who is receiving federal SSI benefits to require the county to do both of the following:
 - a) Assist the youth in establishing continuing disability as an adult, including, but not limited to, submitting relevant records to the Social Security Administration, notifying the youth of any denials or terminations of aid and assisting with timely requesting an appeal, as needed, and assisting the youth in retaining an advocate to provide extended legal representation and advocacy.

- b) In consultation with the youth, identify an appropriate representative payee, such as the youth, a trusted adult, or the county.
 - i. If the nonminor dependent selects a representative payee that is not the county, the county must assist the nonminor dependent in requesting a change of payee to the Social Security Administration and assist the nonminor dependent or the nonminor dependent's representative payee in communicating any changes in the youth's foster care case to the Social Security Administration if those changes would affect the youth's eligibility for, or amount of, SSI benefits.
 - ii. If the nonminor dependent selects the county as their representative payee, the county must follow the procedures specified in 14-15, above, as modified by this bill, to maintain eligibility for SSI benefits. The county must also advise the nonminor dependent on an annual basis of the nonminor dependent's right to request a different representative payee and document in the nonminor dependent's transitional independent living case plan steps the nonminor dependent can take to become their own payee by 21 years of age, and if the nonminor dependent exits care prior to attaining 21 years of age, the county must assist the nonminor in submitting a representative payee application to the Social Security Administration to ensure that the youth receives SSI payments as soon as possible after exiting care.
 - iii. To accomplish the above duties, the county may contract with legal services organizations to provide extended legal representation on behalf of children or nonminor dependents in foster care.
- 3) Amends the county's obligations with respect to screening youths in the foster care system for SSI benefits eligibility as follows:
 - a) A county must screen every youth over 16 years of age who is in foster care and under the supervision of the county child welfare department, juvenile probation department, or tribal organization for eligibility for SSI benefits.
 - b) The screening must first occur when the foster youth is at least 16 years of age and not older than 17 years of age, and to the extent possible, be timed to allow for a determination prior to the youth's 18th birthday.
 - c) The county must screen all nonminor dependents for potential eligibility for SSI benefits and submit an application on behalf of any nonminor dependent who is screened as being likely to be eligible for those benefits and consents to the application.
 - d) A nonminor dependent receiving specified state aid is presumed to have a likelihood of eligibility for SSI benefits.
 - e) A county may contract with legal services organizations to provide extended legal representation to foster youths in connection with these obligations.

- 4) Amends the county's obligations with respect to maintaining eligibility for SSI benefits for nonminor dependents in the foster care system based on whether the county is the representative payee:
 - a) If the county is the nonminor dependent's representative payee, the county must inform the Social Security Administration that the youth is not receiving any federal financial participation during that month in order to permit the nonminor dependent to receive an SSI benefit during a single month of every 12-month period.
 - b) If the county is not the nonminor dependent's representative payee, then for the period that the nonminor dependent remains in foster care, so as to permit the nonminor dependent to receive an SSI benefit every month of the year, the county must assist the nonminor dependent or their representative payee in providing this information to the Social Security Administration and keeping track of the number of months that the nonminor dependent's SSI benefits have been placed in suspense.
- 5) Makes certain nonsubstantive technical and conforming changes.

COMMENTS

1. Author's comment

According to the author:

SB 1300 will help youth who age out of the state's foster care system secure Supplemental Security Income (SSI) benefits. SSI benefits provide significant assistance to young people with disabilities. However, there are many technical barriers to establish and maintain SSI eligibility for youth in care. SB 1300 will improve the lives of many young people who often don't have the family or support networks to assist them by securing existing supports to link youth in foster care with SSI and maintain SSI eligibility for youth in and existing extended foster care.

2. This bill closes a services gap for foster youth who remain in foster care after turning 18 years of age

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

¹ P.L. 110-351 (2008).

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

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

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.⁴

For the last twelve years, California's population of children and youths in foster care has hovered around 60,000.⁵ 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.⁶ 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 over 9,000 in October 2021.⁷

This bill is another incremental refinement of the foster care system for nonminor dependents between 18 and 21 years of age, specifically those with disabilities. SB 1300 modifies the Foster Care Social Security and Supplemental Security Income Assistance Program (the Program),⁸ which was intended to assist foster youths with disabilities in securing and maintaining federal SSI benefits for persons with disabilities before they were emancipated. In recognition of the intimidating and labyrinthine process of applying and maintaining federal SSI benefits, the Program requires counties to screen foster youth between the ages of sixteen-and-a-half and seventeen-and-a-half years for

³ Welf. & Inst. Code § 11403.

⁴ 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).

⁵ California Child Welfare Indicators Project, University of California at Berkeley, Report: Children in Foster Care, CWS/CMS 2021 Quarter 3 Extract (Mar. 15, 2022), available at <https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTSG/r/ab636/s> (last visited Mar. 21, 2022).

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

⁷ *Ibid.*

⁸ AB 1633 (Evans, Ch. 641, Stats. 2005).

the likelihood of eligibility for SSI benefits, assist with applications and the maintenance of benefits, serve as the representative payee for those benefits where necessary, and take steps to preserve the youth's eligibility for benefits.⁹ Following the adoption of the Act and extension of foster care to youths between 18 and 21 years of age, however, the Program was not adequately amended to take into account the ongoing needs of nonminor dependents with disabilities who remained in foster care.

SB 1300 resolves this issue by making several changes to the Program to account for nonminor dependents who remain in foster care until they attain 21 years of age. The bill does so by:

- Moving up the window for screening a foster youth for a likelihood of eligibility for SSI benefits, to between the youth's 16th and 17th birthday;
- Amending the best practices for SSI benefits screening, with the new goal of determining likely eligibility for SSI benefits before the foster youth's 18th birthday and providing a presumption of eligibility in specified cases;
- Requiring the county to provide a youth with information about how their foster care benefits might affect their SSI benefits;
- Requiring the county to provide meaningful assistance to nonminor dependents in establishing eligibility for SSI benefits as an adult if they received those benefits prior to attaining 18 years of age;
- Clarifying a nonminor dependent's rights to select a representative payee for SSI benefits, who could be the nonminor dependent, a trusted adult, or the county, depending on the circumstances;
- Clarifying that the county must provide guidance with respect to SSI benefits reporting and offsetting rules if the nonminor dependent selects a representative payee that is not the county; and
- Clarifying that the county may contract with legal services organizations to perform SSI benefits advocacy where appropriate.

3. Amendments

As currently in print, the bill's provisions use the terms "foster youth" and "nonminor dependent" to refer to the nonminor dependent eligible for services under the Program. The author and sponsors agree that the term "nonminor dependent" is the more precise term for the persons covered by the bill. The author has therefore agreed to accept technical amendments replacing the term "foster youth" with "nonminor dependent," as set forth below. The author has also agreed to an amendment clarifying that, when a foster youth is under the supervision of a tribal organization, the screening for SSI benefits eligibility shall be conducted at the request of the tribal organization. The amendments also make nonsubstantive conforming changes.

⁹ See Welf. & Inst. Code, §§ 13753-13757.

Amendment 1

On page 3, in line 21, strike out “nothing in”

Amendment 2

On page 3, in line 22, after “shall” insert “not”

Amendment 3

On page 4, in line 19, strike out “youth” and insert “nonminor dependent”

Amendment 4

On page 4, in line 22, strike out “youth” and insert “nonminor dependent”

Amendment 5

On page 4, in line 23, strike out “youth” and insert “nonminor dependent”

Amendment 6

On page 4, in line 26, strike out “youth” and insert “nonminor dependent”

Amendment 7

On page 4, in line 27, strike out “youth” and insert “nonminor dependent”

Amendment 8

On page 4, in line 34, strike out “youth’s” and insert “nonminor dependent’s”

Amendment 9

On page 4, in line 36, strike out “youth’s” and insert “nonminor dependent’s”

Amendment 10

On page 5, in line 5, strike out “youth” and insert “nonminor dependent”

Amendment 11

On page 5, in line 6, after “nonminor” insert “dependent”

Amendment 12

On page 5, in line 8, strike out “youth” and insert “nonminor dependent”

Amendment 13

On page 6, in line 20, strike out “organization” and insert “organization, if the tribal organization requests the screening from the county,”

4. Arguments in support

According to the Youth Law Center, one of the bill’s sponsors:

SSI benefits provide federal cash assistance and health insurance as well as pathways to supported employment, education, and housing opportunities. SSI benefits can therefore be vital to youth exiting the foster care system, helping avoid homelessness and support a transition to adulthood in a way that promoted independence and stability.

A few years after passing these SSI supports in state law, California passed AB 12 [(Beall, Ch. 559, Stats. 2010)], extending foster care jurisdiction to the age of 21. AB 12 provides a host of supports and services to youth 18-21, including guaranteed housing until 21. However, neither AB 12, nor its various clean-up bills, updated the SSI screening and applications support that were codified in state law previously.

As a result, there is a gap between the SSI screening process in California (which assumes youth age out of foster care at 18) and extended foster care (which allows youth to stay in foster care until 21). This means that foster youth are screened for SSI between the ages of 16 and 17 years old under California law even though they will likely not transition from foster care until 21. Youth who develop signs of a disability when they are 17 or 18 would not receive assistance. Importantly, youth who qualify under the children’s standard for SSI may not receive appropriate screening or assistance when the Social Security Administration reassesses them for eligibility under the adult standard – even while they are still in foster care. This undermines the intent of California’s foster SSI programs to ensure that youth with disabilities receive SSI as they are aging out of foster care...

SB 1300 updated existing law to ensure that youth in foster care receive screening and support to apply for SSI while they are still in care.

SUPPORT

Alliance for Children’s Rights (co-sponsor)
Youth Law Center (co-sponsor)
California Alliance of Caregivers
California Alliance of Child and Family Services
California Women’s Law Center
Coalition of California Welfare Rights Organizations
Community Legal Aid SoCal
National Center for Youth Law

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

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.

AB 2454 (Quirk-Silva, C. 769, Stats. 2014) expanded nonminor eligibility under the Act by authorizing a nonminor who has not attained 21 years of age to petition the court to assume dependency jurisdiction if the nonminor received public assistance after attaining 18 years of age, as specified, and their former guardian or guardians or adoptive parent or parents no longer provide ongoing support to, and no longer receive payment on behalf of, the nonminor, and the court determines that it is in the nonminor’s best interest for the court to assume dependency jurisdiction.

AB 787 (Stone, Ch. 487, Stats. 2013) expanded on the Act by, among other things, authorizing the court to order a nonminor dependent to reside in additional locations and allowing a nonminor dependent to petition for the court to assume jurisdiction over

themselves if they receive certain public assistance and specified other conditions were met.

AB 1712 (Beall, Ch. 846, Stats. 2012) refined the Act by, among other things, expanding eligibility to specified youths between 18 and 21 years of age not covered by the Act and making nonminor dependents in the foster system eligible for certain services and benefits.

AB 212 (Beall, Ch. 459, Stats. 2011) built on the Act by, among other things, authorizing certain nonminor dependents to continue receiving Kin-GAP funding after they attained 18 years of age and recasting and revising certain definitions applicable to the extension of AFDC-FC payments to nonminor dependents in accordance with a transitional independent living case plan.

AB 12 (Beall, Ch. 559, Stats. 2010), enacted the enacted the California Fostering Connections to Success Act and extended transitional foster care services to eligible youth between 18 and 21 years of age and extended certain services to current or former wards of the juvenile court between 18 and 21 years of age, as specified.

PRIOR VOTES:

Senate Committee on Human Services (Ayes 4, Noes 0)
