

ASSEMBLY BILL

No. 1120

Introduced by Assembly Member Elhawary

February 20, 2025

An act to amend Section 16001.9 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1120, as introduced, Elhawary. Foster care: rights of foster youth.

Existing law generally provides for the placement of foster youth in various placement settings and governs the provision of child welfare services, which is defined to mean public social services that are directed toward the accomplishment of specified purposes, including protecting and promoting the welfare of all children, preventing the unnecessary separation of children from their families, and restoring to their families children who have been removed. Existing law provides that it is the policy of the state that all minors and nonminors in foster care have specified rights, including, among others, the right to receive medical, dental, vision, and mental health services, the right to receive grooming and hygiene products that respect the child's culture, ethnicity, and gender identity and expression, the right to be informed of these rights in an age-appropriate and developmentally appropriate manner, and the right to receive a copy of these rights, at specified intervals.

This bill would require the State Department of Social Services to provide to foster parents and others as appropriate educational resources related to grooming and hygiene products appropriate for the child's culture and ethnicity.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) All children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602, shall have the rights specified in this section. These rights also apply to nonminor dependents in foster care, except when they conflict with nonminor dependents' retention of all their legal decisionmaking authority as an adult. The rights are as follows:

(1) To live in a safe, healthy, and comfortable home where they are treated with respect. If the child is an Indian child, to live in a home that upholds the prevailing social and cultural standards of the child's Indian community, including, but not limited to, family, social, and political ties.

(2) To be free from physical, sexual, emotional, or other abuse, corporal punishment, and exploitation.

(3) To receive adequate and healthy food, adequate clothing, grooming and hygiene products, and an age-appropriate allowance. Clothing and grooming and hygiene products shall respect the child's culture, ethnicity, and gender identity and expression. *The State Department of Social Services shall provide to foster parents and others as appropriate educational resources related to grooming and hygiene products appropriate for the child's culture and ethnicity.*

(4) To be placed in the least restrictive setting possible, regardless of age, physical health, mental health, sexual orientation, and gender identity and expression, juvenile court record, or status as a pregnant or parenting youth, unless a court orders otherwise.

(5) To be placed with a relative or nonrelative extended family member if an appropriate and willing individual is available.

(6) To not be locked in any portion of their foster care placement, unless placed in a community treatment facility.

(7) To have a placement that utilizes trauma-informed and evidence-based deescalation and intervention techniques, to have law enforcement intervention requested only when there is an imminent threat to the life or safety of a child or another person or as a last resort after other diversion and deescalation techniques

1 have been utilized, and to not have law enforcement intervention
2 used as a threat or in retaliation against the child.

3 (8) To not be detained in a juvenile detention facility based on
4 their status as a dependent of the juvenile court or the child welfare
5 services department's inability to provide a foster care placement.
6 If they are detained, to have all the rights afforded under the United
7 States Constitution, the California Constitution, and all applicable
8 state and federal laws.

9 (9) To have storage space for private use.

10 (10) To be free from unreasonable searches of personal
11 belongings.

12 (11) To be provided the names and contact information for
13 social workers, probation officers, attorneys, service providers,
14 foster youth advocates and supporters, Court Appointed Special
15 Advocates (CASAs), and education rights holder if other than the
16 parent or parents, and when applicable, representatives designated
17 by the child's Indian tribe to participate in the juvenile court
18 proceeding, and to communicate with these individuals privately.

19 (12) To visit and contact siblings, family members, and relatives
20 privately, unless prohibited by court order, and to ask the court for
21 visitation with the child's siblings.

22 (13) To make, send, and receive confidential telephone calls
23 and other electronic communications, and to send and receive
24 unopened mail, unless prohibited by court order.

25 (14) To have social contacts with people outside of the foster
26 care system, including, but not limited to, teachers, coaches,
27 religious or spiritual community members, mentors, and friends.
28 If the child is an Indian child, to have the right to have contact
29 with tribal members and members of their Indian community
30 consistent with the prevailing social and cultural conditions and
31 way of life of the Indian child's tribe.

32 (15) To attend religious services, activities, and ceremonies of
33 the child's choice, including, but not limited to, engaging in
34 traditional Native American religious practices.

35 (16) To participate in extracurricular, cultural, racial, ethnic,
36 personal enrichment, and social activities, including, but not limited
37 to, access to computer technology and the internet, consistent with
38 the child's age, maturity, developmental level, sexual orientation,
39 and gender identity and expression.

1 (17) To have fair and equal access to all available services,
2 placement, care, treatment, and benefits, and to not be subjected
3 to discrimination or harassment on the basis of actual or perceived
4 race, ethnic group identification, ancestry, national origin, color,
5 religion, sex, sexual orientation, gender identity and expression,
6 mental or physical disability, or HIV status.

7 (18) To have caregivers, child welfare and probation personnel,
8 and legal counsel who have received instruction on cultural
9 competency and sensitivity relating to sexual orientation, gender
10 identity and expression, and best practices for providing adequate
11 care to lesbian, gay, bisexual, and transgender children in
12 out-of-home care.

13 (19) To be placed in out-of-home care according to their gender
14 identity, regardless of the gender or sex listed in their court, child
15 welfare, medical, or vital records, to be referred to by the child's
16 preferred name and gender pronoun, and to maintain privacy
17 regarding sexual orientation and gender identity and expression,
18 unless the child permits the information to be disclosed, or
19 disclosure is required to protect their health and safety, or
20 disclosure is compelled by law or a court order.

21 (20) To have child welfare and probation personnel and legal
22 counsel who have received instruction on the federal Indian Child
23 Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) and on cultural
24 competency and sensitivity relating to, and best practices for,
25 providing adequate care to Indian children in out-of-home care.

26 (21) To have recognition of the child's political affiliation with
27 an Indian tribe or Alaskan village, including a determination of
28 the child's membership or citizenship in an Indian tribe or Alaskan
29 village; to receive assistance in becoming a member of an Indian
30 tribe or Alaskan village in which the child is eligible for
31 membership or citizenship; to receive all benefits and privileges
32 that flow from membership or citizenship in an Indian tribe or
33 Alaskan village; and to be free from discrimination based on the
34 child's political affiliation with an Indian tribe or Alaskan village.

35 (22) (A) To access and receive medical, dental, vision, mental
36 health, and substance use disorder services, and reproductive and
37 sexual health care, with reasonable promptness that meets the
38 needs of the child, to have diagnoses and services explained in an
39 understandable manner, and to participate in decisions regarding
40 health care treatment and services. This right includes covered

1 gender affirming health care and gender affirming mental health
2 care, and is subject to existing laws governing consent to health
3 care for minors and nonminors and does not limit, add, or otherwise
4 affect applicable laws governing consent to health care.

5 (B) To view and receive a copy of their medical records to the
6 extent they have the right to consent to the treatment provided in
7 the medical record and at no cost to the child until they are 26
8 years of age.

9 (23) Except in an emergency, to be free of the administration
10 of medication or chemical substances, and to be free of all
11 psychotropic medications unless prescribed by a physician, and
12 in the case of children, authorized by a judge, without consequences
13 or retaliation. The child has the right to consult with and be
14 represented by counsel in opposing a request for the administration
15 of psychotropic medication and to provide input to the court about
16 the request to authorize medication. The child also has the right
17 to report to the court the positive and adverse effects of the
18 medication and to request that the court reconsider, revoke, or
19 modify the authorization at any time.

20 (24) (A) To have access to age-appropriate, medically accurate
21 information about reproductive health care, the prevention of
22 unplanned pregnancy, and the prevention and treatment of sexually
23 transmitted infections.

24 (B) At any age, to consent to or decline services regarding
25 contraception, pregnancy care, and perinatal care, including, but
26 not limited to, abortion services and health care services for sexual
27 assault without the knowledge or consent of any adult.

28 (C) At 12 years of age or older, to consent to or decline health
29 care services to prevent, test for, or treat sexually transmitted
30 diseases, including HIV, and mental health services, without the
31 consent or knowledge of any adult.

32 (25) At 12 years of age or older, to choose, whenever feasible
33 and in accordance with applicable law, their own health care
34 provider for medical, dental, vision, mental health, substance use
35 disorder services, and sexual and reproductive health care, if
36 payment for the service is authorized under applicable federal
37 Medicaid law or other approved insurance, and to communicate
38 with that health care provider regarding any treatment concerns
39 or needs and to request a second opinion before being required to
40 undergo invasive medical, dental, or psychiatric treatment.

1 (26) To confidentiality of medical and mental health records,
2 including, but not limited to, HIV status, substance use disorder
3 history and treatment, and sexual and reproductive health care,
4 consistent with existing law.

5 (27) To attend school, to remain in the child's school of origin,
6 to immediate enrollment upon a change of school, to partial credits
7 for any coursework completed, and to priority enrollment in
8 preschool, after school programs, a California State University,
9 and each community college district, and to receive all other
10 necessary educational supports and benefits, as described in the
11 Education Code.

12 (28) To have access to existing information regarding the
13 educational options available, including, but not limited to, the
14 coursework necessary for career, technical, and postsecondary
15 educational programs, and information regarding financial aid for
16 postsecondary education, and specialized programs for current and
17 former foster children available at the University of California,
18 the California State University, and the California Community
19 Colleges.

20 (29) To attend Independent Living Program classes and
21 activities, if the child meets the age requirements, and to not be
22 prevented by caregivers from attending as a consequence or
23 punishment.

24 (30) To maintain a bank account and manage personal income,
25 consistent with the child's age and developmental level, unless
26 prohibited by the case plan.

27 (31) To work and develop job skills at an age-appropriate level,
28 consistent with state law.

29 (32) For children 14 to 17 years of age, inclusive, to receive a
30 consumer credit report provided to the child by the social worker
31 or probation officer on an annual basis from each of the three major
32 credit reporting agencies, and to receive assistance with interpreting
33 and resolving any inaccuracies.

34 (33) To be represented by an attorney in juvenile court; to have
35 an attorney appointed to advise the court of the child's wishes, to
36 advocate for the child's protection, safety, and well-being, and to
37 investigate and report to the court on legal interests beyond the
38 scope of the juvenile proceeding; to speak to the attorney
39 confidentially; and to request a hearing if the child feels their

1 appointed counsel is not acting in their best interest or adequately
2 representing their legal interests.

3 (34) (A) To receive a notice of court hearings, to attend court
4 hearings, to speak to the judge, to view and receive a copy of the
5 court file, subject to existing federal and state confidentiality laws,
6 and to object to or request the presence of interested persons during
7 court hearings. If the child is an Indian child, to have a
8 representative designated by the child's Indian tribe be in
9 attendance during hearings.

10 (B) When a child is entitled to receive a copy of the court report,
11 case plan, and transition to independent living plan (TILP), those
12 items shall be provided in the child's primary language.

13 (35) To the confidentiality of all juvenile court records consistent
14 with existing law.

15 (36) To view and receive a copy of their child welfare records,
16 juvenile court records, and educational records at no cost to the
17 child until the child is 26 years of age, subject to existing federal
18 and state confidentiality laws.

19 (37) To be involved in the development of their own case plan,
20 including placement decisions, and plan for permanency. This
21 involvement includes, but is not limited to, the development of
22 case plan elements related to placement and gender affirming
23 health care, with consideration of the child's gender identity. If
24 the child is an Indian child, the case plan shall include protecting
25 the essential tribal relations and best interests of the Indian child
26 by assisting the child in establishing, developing, and maintaining
27 political, cultural, and social relationships with the child's Indian
28 tribe and Indian community.

29 (38) To review the child's own case plan and plan for permanent
30 placement if the child is 10 years of age or older, and to receive
31 information about their out-of-home placement and case plan,
32 including being told of changes to the plan.

33 (39) To request and participate in a child and family team
34 meeting, as follows:

35 (A) Within 60 days of entering foster care, and every 6 months
36 thereafter.

37 (B) If placed in a short-term residential therapeutic program, or
38 receiving intensive home-based services or intensive case
39 coordination, or receiving therapeutic foster care services, to have
40 a child and family team meeting at least every 90 days.

1 (C) To request additional child and family team meetings to
2 address concerns, including, but not limited to, placement
3 disruption, change in service needs, addressing barriers to sibling
4 or family visits, and addressing difficulties in coordinating services.

5 (D) To have both informal and formal support people participate,
6 consistent with state law.

7 (40) (A) To be informed of these rights in an—age
8 *age-appropriate* and developmentally appropriate manner by the
9 social worker or probation officer and to be provided a copy of
10 the rights in this section at the time of placement, any placement
11 change, and at least once every six months or at the time of a
12 regularly scheduled contact with the social worker or probation
13 officer.

14 (B) For a child who speaks a primary language other than
15 English, to be provided a copy of the child's rights in the child's
16 primary language.

17 (41) To be provided with contact information for the Community
18 Care Licensing Division of the State Department of Social Services,
19 the tribal authority approving a tribally approved home, and the
20 State Foster Care Ombudsperson, at the time of each placement,
21 and to contact any or all of these offices immediately upon request
22 regarding violations of rights, to speak to representatives of these
23 offices confidentially, and to be free from threats or punishment
24 for making complaints.

25 (b) The rights described in this section are broad expressions
26 of the rights of children in foster care and are not exhaustive of all
27 rights set forth in the United States Constitution and the California
28 Constitution, federal and California statutes, and case law.

29 (c) This section does not require, and shall not be interpreted
30 to require, a foster care provider to take any action that would
31 impair the health and safety of children in out-of-home placement.

32 (d) The State Department of Social Services and each county
33 welfare department are encouraged to work with the Student Aid
34 Commission, the University of California, the California State
35 University, and the California Community Colleges to receive
36 information pursuant to paragraph (28) of subdivision (a).