



2022 California Child Welfare Legislation MEMO

***Note:** *This information is current as of the date posted. The bills outlined below are actively being considered and amended by the California Legislature. It is best to review the most updated version of the bills at the links provided. The Coalition will provide updates throughout the 2022 Legislative Session. If a link is broken, please search the bill number at <https://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>.*

Assembly Bills

1. **AB 740: Foster Youth Suspension and Expulsion (McCarty)**

Overview: This bill amends the Education Code related to foster youth. Among several other changes, the bill requires that a charter school written notice of the intent to remove a student who is a foster child must be sent in the primary language of the foster child's attorney or county social worker. The bill grants the same rights a parent or guardian of a foster youth student would have to receive a notice of suspension, expulsion, manifestation determination, involuntary transfer, and other related notices to the foster child's attorney and county social worker.

Tribal Considerations: The bill has no tribal specific language, but it would impact Indian children.

Coalition Position: The Coalition supports the bill with amendments. The Coalition has proposed language that would include tribal social workers in the list of persons authorized to receive education-related notices if the child involved is an Indian child.

2. **AB 993: The Parent and Child Relationship (Patterson)**

Overview: In relevant part, this bill would expand postadoption contact agreements to "nonrelative extended family members." The bill also includes a new definition of "birth relative" to describe who can petition a court for family mediation services related to a postadoption contact agreement. The bill also includes provisions about assisted reproduction and parental criminal record considerations for declaring a minor free from custody.

Tribal Considerations: Expanding the definition of who can enter into a postadoption contact agreement to include nonrelative family members is generally aligned with many tribes' cultural practices that "family" includes family members not necessarily related by blood. This is a favorable change in the law. However, the postadoption contact agreement provisions of this bill remove important references and reminders about the Indian Child Welfare Act (ICWA) from Family Code § 8616.5.

Coalition Position: The Coalition supports this bill with amendments. The Coalition has proposed extensive amendments to make the bill workable for tribes.

3. **AB 1091: Family Finding and Engagement (Hurtado)**

Overview: This bill authorizes funding for family finding and engagement techniques to find permanent placements for foster children under 17 who have been in out-of-home care for two years or more and are not placed with a relative or a family in the process of adopting or assuming guardianship. The California Department of Social Services (CDSS) estimates there are currently 12,237 of these children in care. The bill also requires CDSS to establish a collaborative research team to make recommendations for best practices in family finding.

Tribal Considerations: This bill impacts any Indian children in the state child welfare system who otherwise meet the criteria. The bill also includes "Indian tribes" as eligible entities for local assistance allocations to be used to support new and expanded family finding and engagement programs.

Coalition Position: The Coalition supports the bill with amendments. The Coalition appreciates that tribes were included in the list of eligible entities for funding. However, the Coalition has proposed language to



the bill sponsor to include “tribal representatives” as a required category of persons on the CDSS collaborative research team to ensure that tribal input is included in establishing family finding best practices.

4. AB 1794: Post Adoption Contact Agreement: Reinstatement of Parental Rights (Gipson)

Overview: This bill allows children or nonminor dependents for whom the parental rights of their parent(s) were terminated to petition the court to reinstate parental rights in certain situations. The court must order a hearing if it appears reinstating parental rights would be in the best interest of the child/nonminor dependent. If, by clear and convincing evidence, the court finds reinstating parental rights would be in the child/nonminor dependent’s best interest, then rights shall be reinstated regardless of when the rights were terminated. This bill also permits postadoption contact agreements with siblings with whom a child did not have a preexisting relationship.

Tribal Considerations: The bill includes language that requires notice to be sent to the child/nonminor dependent’s tribe when a hearing is set to consider reinstating parental rights. However, while the bill extends to children who have been adopted in the state court system, it does not extend to tribal customary adoption (TCA) cases. Parental rights are not fully terminated in tribal customary adoption cases, but some rights may be modified, so the authority this bill grants to reinstate parental rights may still be wanted/needed in some TCA cases.

Coalition Position: The Coalition supports the bill with amendments. The Coalition has proposed language that would extend the authority to petition for reinstatement of parental rights to tribal customary adoptions for Indian children and nonminor dependents.

5. AB 2176: Live Birth Registration (Wood)

Overview: This bill extends the deadline to register a live birth with the local registrar from 10 days to 21 days following a child’s birth.

Tribal Considerations: The co-authors proposed the bill to honor and recognize the sacred ceremonial blessing and naming of a newborn that some tribes and other cultures recognize as important to traditional lifeways (which often takes 10 or more days), while ensuring parents can remain in compliance with the birth registration laws.

Coalition Position: The Coalition supports this bill.

6. AB 2259: Foster youth: substance use disorders (Berman)

Overview: This bill establishes a grant program through CDSS and the State Department of Health Care Services for the development and implementation of evidenced-based models for serving foster youth with substance use disorders.

Tribal Considerations: Tribes are not included in the list of eligible entities for the grant funding. The language establishing the stakeholder development group is broad enough by including “other stakeholders, as determined by the department” that tribes could be involved in the creation of the program, but there is no requirement to include tribal representatives even though Indian foster youth are impacted by substance use disorders just like other foster children and youth.

Coalition Position: The Coalition supports the bill with amendments. The Coalition has proposed language to the bill sponsor to include tribes as entities eligible for the grant funding and tribal representatives as a required category of persons on the development stakeholder group.

7. AB 2306: Foster Care (Cooley)

Overview: This bill requires CDSS to license specialized residential facilities for foster care transition-aged youth between 16-21. The bill also authorizes funding for short-term residential therapeutic programs (STRTPs) beginning in July 2023 to reimburse eligible claims of property damage up to \$10,000 arising out of care of a foster child or nonminor dependent. The bill additionally would require



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CDSS to provide legal representation on behalf of a resource family, tribally approved home, or STRTP if the property damage exceeds the allowable amount.

Tribal Considerations: The bill impacts foster caregivers of Indian children in the state child welfare system. The bill language includes tribally approved homes in the caregivers that are eligible for property damage recovery and legal representation.

Coalition Position: The Coalition supports this bill.

8. **AB 2309: Guardianships (Friedman)**

Overview: The bill requires that if a parent designates a specific guardian for a child removed from their custody, unless the court finds by a preponderance of the evidence that there is a clear and present threat to the child's safety, the court must place the child with the specified guardian.

Tribal Considerations: This bill, as currently written, could cause confusion about whether the statutorily required placement preferences in ICWA and WIC § 361.31 apply in voluntary proceedings where a parent designates a specific guardian. However, ICWA and WIC § 361.31 placement preferences would still apply.

Coalition Position: The Coalition supports the bill with amendments. The Coalition has proposed clarifying language to the bill sponsor that affirms WIC § 361.31 would still apply and that placement preferences must be safeguarded.

9. **AB 2665: Blind Removals Pilot Project (Carillo/formerly AB 656)**

Overview: This bill would establish a three-year pilot program in five counties to pilot a "blind removal strategy" for decision-making about whether a child should be removed from their home. A blind removal program typically redacts certain demographic information, including race and domicile information, about the child and parents involved in a report of abuse or neglect. Blind removal programs have been used in only a few counties around the country, and the data outcomes about whether the model safely decreases overrepresentation of Black and Native children in the child welfare system is inconclusive. There is no information available about how blind removal strategies work with ICWA or how to ensure that ICWA requirements remain intact.

Tribal Considerations: While tribes certainly want to address racial disparities in the child welfare system as this bill, and blind removal strategies more broadly, aims to do, there has seemingly been no consideration for how blind removals relate to ICWA protections. There must be safeguards in place that ensure tribes can be involved in decision making about Indian children and, most importantly, to ensure that all ICWA requirements remain intact.

Coalition Position: This bill requires amendments to protect ICWA compliance. There must be clear strategies for how a blind removal program can be implemented without harming ICWA protections.

Senate Bills

1. **SB 384: Relative Placement Family Finding (Cortese)**

Overview: This bill requires 1) county welfare departments to notify CDSS and the State Foster Care Ombudsperson by January 1, 2023, whether the county adopted a suggested family finding practice from [All County Letter 18-42](#); and 2) social workers and probation officers to identify relatives and kin to connect a child with them for possible placement.

Tribal Considerations: There is no tribal specific language in the bill. However, the provisions would impact family finding for Indian children removed from their parents or guardians.

Coalition Position: The Coalition supports this bill with amendments. The Coalition has proposed an amendment that would add language clarifying that for an Indian child, family finding must include contacting the Indian child's tribe to identify relatives and kin.



2. SB 854: Hope, Opportunity, Perseverance, and Empowerment (HOPE) for Children Act of 2022 (Skinner)

Overview: This bill would establish a trust fund account for eligible children. Eligible children include children under the age of 18 1) whose parent or guardian died due to COVID-19; or 2) the child has been made a dependent child of a juvenile court, in foster care for at least 12 months, and the court has determined the child is not likely to return home safely to their parent or guardian. The bill also creates a workgroup to advise the State Treasurer on the design of the program.

Tribal Considerations: There is no tribal specific language, but Indian children are disproportionately impacted by COVID-19 related deaths of parents or guardians and could be positively impacted by the creation of the trust funds established by the bill. Preliminary data shows that American Indian and Alaska Native youth have been 4.5 times more likely to lose a parent or grandparent caregiver due to COVID-19 than White children.¹ The bill currently only extends the trust fund benefit to children adjudged dependents of state courts – not tribal courts. Importantly, the bill author did include language that exempts the trust funds as income for extended foster care determination which is helpful given the challenges arising for Native youth battling incorrect foster care redeterminations.

Coalition Position: The Coalition supports the bill with amendments. The Coalition has proposed amendments to the bill sponsor to 1) include “tribal representatives” as a required member of the workgroup; and 2) to extend eligibility to Indian children under the jurisdiction of tribal courts if the tribe chooses to notify the state of the Indian child’s eligibility for the trust fund benefit.

3. SB 1300: Foster youth: Supplemental Security Income (Durazo)

Overview: The bill, in relevant part, requires counties to screen all nonminor dependents over 16 years old for potential Supplemental Security Income (SSI) eligibility.

Tribal Considerations: The bill requires counties to screen any youth over 16 years of age under the supervision of a tribal organization for SSI eligibility. This is generally a positive benefit that Indian children under the supervision of a tribal organization should be able to access. However, the legislation should not require tribal organizations to disclose information about dependent children.

Coalition Position: The Coalition supports the bill with amendments. The Coalition has proposed language to the bill sponsor that would ensure tribal organizations can opt-in to have tribal dependent nonminors screened for SSI eligibility, rather than to require tribal organizations to provide that information to counties.

¹ <https://www.nih.gov/news-events/news-releases/more-140000-us-children-lost-primary-or-secondary-caregiver-due-covid-19-pandemic>