



2022 California Child Welfare Legislation – August Update 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>. Several of the bills we originally reported on in May 2022 have since been incorporated into Trailer Bill Language (TBL), so just because a bill looks inactive on Leginfo does not mean that measure is not moving forward.*

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 would impact Indian foster children, though at the beginning of the legislative session it had no tribal/Indian child-specific language.

Outcome: The bill was amended to include tribal social workers in the list of persons authorized to receive education-related notices of an Indian foster child. The bill is currently on its 3rd reading in the Senate and is expected to pass.

2. **AB 2845 (originally reported as 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, at the beginning of the legislative session, the postadoption contact agreement provisions of this bill removed important references and reminders about the Indian Child Welfare Act (ICWA) from Family Code § 8616.5.

Outcome: The bill was amended to acknowledge that some adoptive children would benefit from either direct or indirect postadoption contact with their tribe and that voluntary agreements for continuing such contact may be executed. The bill passed and was enrolled on 8/26/2022.

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.

Outcome: The author and sponsor organization agreed to include “tribal representatives” in the collaborative research leadership team list, however, the amendment has not yet been put into print. The bill has been stalled since 7/29/2022, perhaps indicating the bill will be in TBL or will not move forward this legislative session.

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, at the beginning of the legislative session, the bill did not extend to tribal customary adoption (TCA) cases.

Outcome: The bill now allows a state court to reinstate jurisdiction and requires the state court to give full faith and credit to a modified TCA order that modifies or reinstates parental rights. The bill is currently on its 3rd reading in the Senate and is expected to pass.

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.

Outcome: This bill passed and is a chaptered law as of 6/21/2022.

6. 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.

Outcome: The bill was amended to include clarifying language that if the child involved is an Indian child, ICWA placement preferences shall still be applied. The bill is currently on its 3rd reading in the Senate and is expected to pass.

7. AB 2665: Blind Removals Pilot Project (Carillo)

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



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program typically redacts 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 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 aims to do, there was no language at the beginning of the legislative that protected ICWA in the blind removals process. Blind removal strategies are spreading in popularity around the country and there must be safeguards in place to ensure tribes can be involved in decision making about Indian children and, most importantly, to ensure that all ICWA requirements are complied with even in a blind removal decision making framework.

Outcome: The bill was amended to include clarifying language that ICWA requirements must still be complied with in blind removal processes and that the pilot program shall be developed in consultation with federally recognized tribes. The bill passed and was enrolled on 8/26/2022.

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 was no tribal specific language in the bill at the beginning of the legislative session. However, the provisions would impact family finding for Indian children removed from their parents or guardians.

Outcome: The bill was amended to include clarifying language that for an Indian child, family finding must include contacting the Indian child's tribe to identify relatives and kin. The bill has been ordered to engrossing and enrolling and is expected to pass.

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 was no tribal specific language at the beginning of the legislative session, 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.

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



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Outcome: The bill was amended to include tribal representatives in the list of required stakeholders for the workgroup that would advise the Legislature about the program. The Coalition worked with the author and sponsor on language that would extend the benefit to foster children under the jurisdiction of tribal courts, but the amendment is not yet in print. The bill has been held in the Senate Appropriations Committee suspense file since 5/19/2022.

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 initially included language requiring 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, state legislation cannot require tribal organizations to disclose information about tribal dependent children.

Outcome: The bill was amended to make it optional, rather than required, for a tribal organization to have foster children under their jurisdiction be screened by the county for SSI. The bill has been held under submission in the Assembly Human Services Committee since 8/11/2022.

Previously Reported

We previously reported on the following bills, but no amendments were suggested by the Coalition:

- **AB 2259: Foster youth: substance use disorders (Berman)**
- **AB 2306: Foster Care (Cooley)**