



## 2023 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 2023 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 20: 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 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.

#### 2. **AB 44: Peace Officers: Tribal Police (Ramos)**

**Overview:** This bill expresses the intent of the legislature to enact legislation to promote tribal self-governance by granting more authority to tribal police to enforce state law and by granting tribal police access to the California Law Enforcement Telecommunications System.

**Tribal Considerations:** Tribes in California have long fought for the right to access CLETS for tribal police. If this bill includes substantive enactment of access to CLETS, tribal police will have the necessary information to protect the safety of tribal citizens and themselves.

#### 3. **AB 366: Human Services (Petrie-Norris)**

**Overview:** This bill expresses the intent of the legislature to enact legislation to improve and increase recruitment and retention of county human services staff.

**Tribal Considerations:** Currently this bill only contains legislative intent language, the Coalition will continue to monitor this legislation as language is added. Should the bill contain language in which educational stipends are provided to students who agree to serve in county child welfare services programs, tribes would be impacted if language is not also included allowing student service to payback the educational stipend also include tribal social services programs.

#### 4. **AB 369: Foster Care: Independent Living (Zbur)**

**Overview:** This bill would require counties to conduct comprehensive reviews of existing Independent Living Programs with the intent of updating and upgrading as well as promoting consistency of services between counties. This bill would also expand eligibility for Independent Living Program services from youth aged 21 and younger to youth aged 23 and younger. Finally, the bill would codify federal guidance directing states to refrain from conducting redeterminations of Title IV-E eligibility for youth entering extended foster care which has historically resulted in youth being disqualified for extended foster care benefits.

**Tribal Considerations:** This bill has no tribal specific language but would impact Indian children. Specifically, extending the age of eligibility for Independent Living Programs would positively impact Indian youth.



Additionally, the prohibition against redeterminations of tribal youth resources while in extended foster care will correct a wrong that has led to several Indian children losing access to extended foster care benefits historically. Finally, any analysis of Independent Living Programs should also include participation by tribal representatives to ensure the unique needs of Indian children in Independent Living Programs are met.

#### **5. AB 448: Juveniles: Relative Placement: Family (Carillo)**

Overview: This bill would require county social workers to immediately and no later than 30 days conduct family finding and to report to the court in the social study what efforts the social worker has made to locate relatives to take temporary custody of the child, including the names of any relatives who are able and willing to take temporary custody of the child as well as to report the continued family finding at each status review hearing.

Tribal Considerations: This bill contains no tribally specific language but maintains current statutory language that family finding for Indian children includes contacting the Indian child's tribe to identify relatives and kin. The current proposed language requires the social worker to document the efforts and findings they have made to locate relatives. This language does not currently describe that for Indian children these efforts should be "active efforts".

#### **6. AB 525: Foster Youth: Supervised Independent Living Placement Housing Supplement (Ting)**

Overview: This bill would create a housing supplement for non-minor dependents placed in Supervised Independent Living Placements. The supplement would be calculated based on the difference between one half of the fair market rental value for a 2 bedroom in the county in which non minor resides and 30% of the foster care basic rate.

Tribal Considerations: This bill does not contain tribally specific language but could positively impact Indian children in extended foster care and placed in Supervised Independent Living Placements by increasing housing funding.

#### **7. AB 723 Pupil Placement: Special Education Foster Children Nonpublic Nonsectarian Schools or Agencies: School of Origin (Quirk-Silva)**

Overview: This bill requires the definition of "school of origin" for foster children with exceptional needs to include certified nonpublic, nonsectarian schools. The bill requires nonpublic, nonsectarian schools seeking certification to allow foster children to continue their education at the school. The bill would improve stability for a population of youth – those in foster care and with special needs – who especially need consistency and supportive services.

Tribal Considerations: The definition of "foster youth" referred to in this bill includes "A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law." EDC § 48853.5(a)(3).

#### **8. AB 373: Intersession programs: foster children and homeless youth: priority access (Gipson)**

Overview: This bill requires intersession school programs (i.e., summer school) to give priority access to foster children and homeless children and allows educational rights holders to determine which intersession program to attend if the foster child is going to move during the session.

Tribal Considerations: The definition of "foster youth" referred to in this bill includes "A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law." EDC § 48853.5(a)(3).

#### **9. AB 876 Child Fatalities and Near Fatalities (Rivas)**

Overview: This bill would allow the court to retain jurisdiction in cases in which a child or nonminor dies because of abuse or neglect while a dependent to receive documents and information related to the circumstances of the death. This bill would also allow parties to the case to request the case remain open for



this purpose and requires the court to keep the case open if a party requests unless the court finds that there is enough information to determine the cause of death without retaining jurisdiction.

Tribal Considerations: This bill contains no tribally specific language but would impact Indian families and tribes in cases in which Indian children die while a dependent of the court. Specifically, Indian parents or tribes may be able to request the court maintain jurisdiction to understand more about the child's death. This is a significant issue that would relieve the current frustration of many tribes that collaboration with county child welfare agencies in the investigation of a child's death is lacking and inconsistent.

#### **10. [AB 937](#) Dependency Family Reunification Services (McKinnor)**

Overview: This bill would require the court to state the factual basis for the finding that reasonable efforts had not been made to support a parent in family reunification at the 12 month and 18 month review hearings. This bill will also require the court to extend family reunification services at the 18 month review hearing if the court finds that reasonable efforts have not been provided.

Tribal Considerations: This bill contains no tribally specific language but would impact Indian children and families. Specifically, Indian children and families may benefit from the extension of reunification services in those instances in which reasonable efforts have not been provided.

#### **11. [AB 1112](#) Foster Youth (McKinnor)**

Overview: This bill would expand the eligibility for the expectant parent benefit to include minors and nonminor dependents who are under the dependency jurisdiction of the juvenile court and who would be eligible to have foster care benefits paid on their behalf but are not in an approved placement. The bill would also require the county, if they opt to provide a clothing allowance, to provide it to minors or nonminor dependents who are under the dependency jurisdiction of the juvenile court and are not in an approved placement.

Tribal Considerations: This bill does not contain tribally specific language but could positively impact Indian children who may have been denied expectant parent benefits or clothing allowances while being placed in an unapproved placement.

#### **12. [AB 1134](#) Family Reunification Services (McKinnor)**

Overview: This bill amends current law that allows courts to deny family reunification services in cases in which the parent has been convicted of violent felony to only deny those services in cases in which the parent has been convicted of violent felony against a child that was in the parent's care.

Tribal Considerations: This bill does not contain tribally specific language but could positively impact Indian children and families by eliminating the court's ability to deny family reunification services to parents who committed a violent felony while still maintaining the court's ability to deny family reunification services to those parents who specifically committed a violent felony against a child in their care.

#### **13. [AB 1512](#): Foster care payments (Bryan)**

Overview: This bill expands a county's responsibility to provide information to foster youth prior to their 18<sup>th</sup> birthday from requiring certain information to those receiving Social Security Administration funding to also apply to those receiving Veterans Benefits Administration funding. The bill would require a county to do the following six months before a youth's 18<sup>th</sup> birthday – 1) provide information about continuing disability as an adult; 2) provide information on becoming a payee and how to maintain funding; and 3) provide financial literacy training and support.

Tribal Considerations: There are no tribal specific provisions in the bill, but it would impact Indian children in foster care.

#### **14. [AB 1544](#): Child Abuse Central Index (Lackey)**

Overview: This bill authorizes law enforcement to which a report of child abuse or severe neglect is made to forward a written report to the Department of Justice on the investigation of substantiated child abuse or severe neglect. The bill further requires law enforcement to adopt procedures to notify persons reported to the



Child Abuse Central Index (CACI).

Tribal Considerations: There are no tribal specific provisions in the bill, but it would impact Indian children and families.

**15. AB 1675: Foster care: enrichment activities (Alanis)**

Overview: The bill would require select state agencies to leverage available funds to support enrichment activities for children and youth in foster care and to establish a workgroup to develop how activity stipends benefit current and former foster youth in family maintenance services. The bill also imposes additional reporting requirements on the state agencies for how the \$50,000,000 appropriation in 2022 is used to support foster youth enrichment activities.

Tribal Considerations: The bill impacts the nearly 1,600 Indian children in state child welfare proceedings by improving access to enrichment activities and it includes “representatives of tribal entities” as a required stakeholder on the workgroup.

**16. AB 1147: Disability Equity and Accountability Act of 2023 (Addis)**

Overview: This bill proposes significant changes to the California Department of Developmental Services (DDS) and their oversight mechanisms over the 21 Regional Centers. The changes in the bill fall within three categories: 1) Equity – several provisions proposed would address racial, ethnic and geographic disparities in Regional Centers; 2) Accountability – several provisions would address how DDS shares data and oversees Regional Center governance; and 3) Transparency – several provisions would update the technology reporting systems to better support transparent data sharing.

Tribal Considerations: The bill does not have any specific tribal provisions but the overall themes of equity and accountability could improve the DDS system for tribal families who often go un- or under-served by the developmental disability system.



## Senate Bills

### 1. **SB 9: Raising the Age of Extended Foster Care of 2023 (Cortese)**

Overview: This bill amends Welfare and Institutions Code Sections to expand the jurisdiction of the juvenile to a non minor who has not attained 26 years of age instead of age 21.

Tribal Considerations: The bill has no tribal specific language, but it would impact Indian children, specifically allowing for Indian children to continue in the extended foster care program up to the age of 26 instead of up to the age of 21 as is presently provided in the law.

### 2. **SB 21 Civil Actions: Remote Proceedings (Umberg)**

Overview: This bill extends authorization for parties to appear remotely in court proceedings until January 1, 2026. It further authorizes adoption finalization hearings under the Family Code to be conducted remotely without the court needing to make findings that it is impossible or impracticable for the party to appear in-person. The bill also imposes a reporting requirement on county courts to report to the Judicial Council how remote appearances impact proceedings.

Tribal Considerations: There are no tribal specific provisions in this bill but it could positively impact tribal children or families involved in private adoptions to access court remotely. This bill would not interfere with tribes' statutory right to appear remotely in cases governed by the Indian Child Welfare Act as codified in WIC § 224.2(k).

### 3. **SB 22: Courts: Remote Proceedings (Umberg)**

Overview: This bill amends the Code of Civil Procedure, Government and Penal Code Sections to allow remote appearances in various court proceedings, including juvenile proceedings. The bill would authorize courts to prohibit parties from appearing remotely for certain reasons including 1) the court does not have the technology; 2) the quality of technology would interfere with the proceeding; 3) the court determines an in-person appearance would materially assist; 4) the quality of tech impacts the court reporter's ability to prepare a transcript; 5) technology prevents an attorney from providing effective representation; or 6) technology prohibits language access to an authorized individual.

Tribal Considerations: The bill has no tribal specific language, but it would impact Indian children, Indian parents, and tribes' ability to appear in juvenile dependency proceedings remotely by codifying the continued allowance of the use of technology to appear remotely. Post COVID-19 there has been a flurry of court rules and legislation regarding remote appearances. In 2022, CTFC and tribal advocates were successful in protecting tribes' statutory right to appear remotely in cases governed by the Indian Child Welfare Act, which was first implemented in 2019 through AB 686, and confirmed through AB 2960 and now codified at WIC § 224.2(k) with language protecting against court rules or legislation like this bill because "notwithstanding any other provision" language was included.

### 4. **SB 242 Hope, Opportunity, Perseverance, Empowerment for Children Trust Account Program (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.<sup>1</sup> 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.

**5. [SB 307](#) Middle Class Scholarship Program: Community Colleges Current and Former Foster Youth**

Overview: This bill would extend the Middle Class Scholarship Program that provides scholarships to individuals enrolled in a University of California or California State University, to foster youth who are participating in a community college program and are pursuing transfer to a 4-years postsecondary educational institution, an associate degree, an associate degree for transfer or a community college career technical education certificate.

Tribal Considerations: This bill contains no tribally specific language but could positively impact Indian children in foster care pursuing higher education by increasing access to scholarships for those youth in community colleges.

**6. [SB 408](#): Foster Youth With Complex Needs: Regional Health Teams: Short-Term Assessment, Treatment and Transition Programs (Ashby)**

Overview: This bill declares the intent of the legislature to enact legislation to provide enhanced services and supports to foster youth complex needs.

Tribal Considerations: This bill currently only contains language of legislative intent. It is anticipated that as bill language is built, this bill will have an impact on Indian children, especially Indian children with complex needs who are currently underserved by county child welfare and behavioral health systems. CTFC will be monitoring this legislation and update this memo as language is amended.

**7. [SB 463](#): Dependent Children (Wahab)**

Overview: This bill would remove existing statutory language that requires a court to consider a parent or legal guardian's failure to participate regularly and make substantive progress in a court-ordered treatment program prima facie evidence that return would be detrimental.

Tribal Considerations: This bill does not include tribally specific language but would impact Indian children and families. The legislation would create a higher burden to prove detriment of return for all children because proof that return would be detrimental could no longer be solely based on the fact that the parent is not participating regularly and making substantive progress in a treatment program. While the erasure of this prima facie requirement may make returning a child to their parent easier, it may also allow for return before a parent has substantially complied with a treatment program, potentially leading to safety concerns.

**8. [SB 578](#): Juvenile Court: Dependents: Removal (Ashby)**

Overview: This bill would require the juvenile court to consider any likely harm that may occur to a child due to removal from their parent, guardian or Indian custodian including consideration of such factors as the child's attitude towards removal and ties to parents, guardians or other household members. This bill would additionally require that a county social worker include in predisposition reports any likely harm that may occur to the child due to removal and the steps taken to minimize that harm.

Tribal Considerations: This bill has no tribal specific language, but it would impact Indian children. Specifically, the bill currently proposes the court consider the following factors in the harm determination:

- Ties to parents, Indian custodian, guardian and other household members
- Disruption to child's schooling and social relationships that may result from placement outside of the neighborhood

These factors do not currently target specific factors that are relevant for Indian children, such as disruption to tribal community relationships, extended family members, cultural practices, and relationships that should be considered in the harm determination.



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