



Children's Law Center of California

CA Fostering Connections to Success Act: Age Eligibility Issues Memo No. 2

OVERVIEW OF AB 12/212: The CA Fostering Connections to Success Act takes effect January 1, 2012. It extends jurisdiction for youth in foster care and some youth in the delinquency system until age 20. Beginning in 2014, benefits will extend to youth up to 21 years old *subject to a budget appropriation by the state Legislature*. Youth who close their case will have the ability to **re-enter** as many times as necessary until they no longer meet the age eligibility requirement. Thus, beginning January 1, 2012, once the court terminates jurisdiction, it will maintain **general jurisdiction** over youth between the ages 18-20 (or 21) for purposes of reentry. *WIC 303 (b)*

While we will be continuously providing you with the most current information on this new law, below is information about AB 12/212 that will help to ensure that your current clients receive the full benefit of the new law. Also included are practice tips for attorneys to implement in preparation for the changes that will take place.

YOUTH WHO TURN 18 IN 2012: *All of these youth will be eligible if they meet the participation requirements.*

Practice Tip:

- For clients turning 18 in 2012, inform them now of their AB 12/212 eligibility.
- Go over the changes and the benefits of the new law.
- Review their TILP with them. We want them to start thinking about how they plan to meet one of the five conditions of eligibility (high school, college, working, involved in a program to overcome job barriers or unable to do any of the above because of a medical condition).

YOUTH WHO ARE OVER 18 IN 2011: *None of these youth are eligible.*

Youth who are 19 or 20 right now will not be eligible for AB 12/212 starting January 1, 2012.

However, AB 12/212 has **not** changed the court's ability to use its discretion pursuant to WIC 303 to keep cases open until youth reach age 21. In other words, it should be "business as usual" with respect to these youth. This is especially the case in LA County, where these cases are regularly kept open. This population should not be disadvantaged by the new law!

KIN-GAP/ADOPTION: Extended benefits will be available for youth who are adopted or enter Kin-GAP at age 16 or older.

Practice Tip: If you have a client who is entering Kin-GAP or being adopted, but s/he is not yet 16, you may want to delay the guardianship/adoption to ensure extended benefits eligibility. Advocating for delaying the guardianship/adoption should be done on a case-by-case basis, weighing such factors as the age of the youth and the benefit of permanency compared to the benefit of extended foster care payments.

- ❖ **Additional information on Kin-Gap program available in forthcoming memo #3**

YOUTH WHO TURN 18 IN 2011

Youth 18 in 2011 are eligible for AB 12/212 federal extended foster care benefits.

Because the law is only available to youth under 19 in 2012 and under 20 in 2013, youth who turn 18 in 2011 will be eligible until their 19th birthday in 2012. Then youth will resume eligibility in 2013 until their 20th birthday.

Example: Anthony turns 18 on October 20, 2011. Beginning January 1, 2012, he will be eligible for extended benefits under AB 12/212 and this will continue until he turns 19 on October 20, 2012. On October 20, 2012, he will no longer be eligible for benefits until January 1, 2013, when his benefits will resume until he turns 20.

However, this does not necessarily mean cases have to close when youth reach age 19 next year. Courts still have discretion under WIC 303 to keep cases open and allow for other funding, such as county funds, until federal eligibility resumes.

Clients who have turned, or who are turning, 18 in 2011 and whose cases close in 2011 may be able re-enter after January 1, 2012.

Because **general jurisdiction** is not defined in the code until 2012, it is unclear whether youth whose cases close in 2011 will ever be eligible to re-enter. This is a contested issue and likely will result in litigation. In order to ensure eligibility, it is best practice to keep these cases open until at least January 1, 2012.

Practice Tip: What if your client wants to close his/her case? Talk to your client about AB 12/212, including what new services (i.e. SILP) will be available. Make sure to explain that closing the case may restrict your client from ever receiving AB12/212 services.

Practice Tip: What if the Judge/Dept believes they must or simply wants to close the case? There are several arguments you can make to keep the case open.

1. High school completion rule: if your client is reasonably expected to graduate high school by the time s/he is 19, your client remains AFDC eligible. It was the intent of AB 12/212 to include these youth.
2. WIC 303: if the high school completion rule doesn't apply, courts still have discretion under WIC 303 to keep the case open. Given that these youth fall under the definition of a NMD (WIC 11400), arguably the intent of AB 12/212 was to include these youth as well.
3. Given that the intent of both the California and the Federal Fostering Connections to Success Acts is to create a safety net, it makes no sense to interpret either Act to mean that a youth must or should have their case closed – when doing so prematurely could foreclose access to benefits.

Practice Tip: What if your client refuses to keep is/her case open, or the Judge closes it over your objection? Advise your client about the possibility of being able to re-enter beginning 1/1/12. Your former client can contact you directly, go to court and file a 388(e) petition for re-entry, or go to the nearest child welfare agency. These youth can also find information about the re-entry process through their ILP coordinators.

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