



Children's Law Center of California

CA Fostering Connections to Success Act: New Legislation, SB 1013 and AB 1712

Memo No. 7

Summary: California recently passed two bills that make important changes to the California Fostering Connections to Success Act. These changes will impact many of our clients' eligibility and/or benefits under extended foster care, especially the "gap" kids. The first bill, SB 1013 (aka "Trailer Bill") contains the fiscal provisions. It went into effect immediately after it was signed (July 2012). The second bill, AB 1712, will go into effect January 1, 2013.

SB 1013 AKA "Trailer Bill" – Currently in Effect

Funding to age 21 (WIC § 10103.5): Guarantees federal funding available up to age 21 for youth who remain in extended care. Previously, under AB 12, funding was only guaranteed up until age 20.

"Gap" Kids (WIC § 10103.5): Closes the gap in federal funding for those youth who turned 19 in 2012. Instead of them going in and out of eligibility, those youth continue to receive benefits the entire time their cases remains open.

Re-Entry For Youth Who Turned 19 in 2012 (WIC § 10103.5): Allows "gap" kids to re-enter at any time if the only reason their cases closed in 2012 was because they turned 19. Previously, re-entry was only available for these youth when they became eligible again on January 1st 2013. For more details, please refer to the updated CLC re-entry memorandum.

AB 1712 – Effective January 2013

Family Reunification (WIC §§ 361.6, 366.31 (d)): Clarifies family reunification for youth over 18. States the court can continue FR for a non-minor dependent ("NMD") when:

- 1) The Court determines that it is in the best interest of the NMD, **and**
- 2) The NMD and parent/legal guardian are in agreement, **and**
- 3) The Court finds that there is a substantial probability that the NMD will be able to safely reside in the home of the parent or guardian by the next review hearing.

FR cannot exceed the timeframes as set forth in WIC § 361.5. The continuation of FR past their 18th birthday will not impact the eligibility of the NMD for extended foster care benefits, including housing and other case management services.

Practice Tip: As long as our clients are still under a placement order (*not* HOP), they are eligible for extended foster care benefits even if their parents are receiving FR. For example, your client can live in a SILP even if s/he is in FR. If a client is ordered HOP *after* their 18th birthday, the client is eligible for re-entry after the court terminates jurisdiction.

AB 1712 – Effective January 2013 (continued)

Adult Adoption (WIC §§ 366.3, 366.31(f), 366.32, 16120, 16123): Includes adult adoption as a permanent plan option for the NMD that can be finalized in the dependency court. If the NMD adoption is ordered as the dependent's permanent plan, a hearing shall be held within 60 days. A NMD Indian Child is also eligible for tribal customary adoptions.

CASA for NMD (WIC § 101, 10, 107): Clarifies that the appointment of a CASA may continue for a NMD as long as the NMD consents. The CASA may only have access to records with the explicit written and informed consent of the NMD.

Developmental Disabilities (WIC § 361): If a NMD is deemed incompetent, the court can appoint a decision maker if it is in the NMD's best interest. A decision maker can be any "responsible adult," such as a caretaker, relative, CASA, etc. The decision maker will be authorized "to make educational or developmental services decisions" for the NMD.

Practice Tip: If you are representing a client who is over 18 but might not be competent to make important decisions about his or her case, there are a number of options for that youth depending on his/her needs. Such options include the appointment of a guardian ad litem pursuant to Code of Civil Procedure § 372 et seq., a developmental services decision maker pursuant to WIC § 361, and/or a conservator.

Intercounty Transfers (WIC §§ 17.1, 375): The court may transfer jurisdiction when:

- 1) A nonminor dependent has a continuous physical presence in another county (the "county of residence") for 12 months *as a nonminor dependent* and has expressed an intent in remaining in that county *or*
- 2) A nonminor re-entering care has had a continuous physical presence for at least for 12 months in another county during their time out of care and has expressed an interest in remaining in that county.

Practice Tip for Re-Entering Youth Residing Out of County

A non-minor can submit the 388(e) to request re-entry in the county where s/he lives, but the petition must be forwarded to the county where his/her case closed ("county of general jurisdiction"). The county of jurisdiction is responsible for re-opening the case.

If a youth wants their case transferred to a different county but it has not been 1 year, the court of general jurisdiction can re-open the case and establish nonminor dependent status. The youth can reside out of the county of general jurisdiction. The county of general jurisdiction will retain jurisdiction and continue to provide case management services and benefits. Transferring the case becomes an option 1 year from the date the youth began to reside in the new county.

NMD Separate Court File (WIC § 362.5): Requires a separate court file for NMDs. Limited access is available for the NMD, court personnel, the attorney for the nonminor dependent, district attorney (only if NMD is a delinquent ward), county counsel, social services agency or probation department, the State Department of Social Services, and judges, referees, and other hearing officers actively participating in juvenile proceedings involving the NMD.