

ASSEMBLY BILL

No. 2001

Introduced by Assembly Member Ammiano

February 20, 2014

An act to amend Section 300 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2001, as introduced, Ammiano. Homeless youth: dependency proceedings.

Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in certain cases, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would additionally provide that a child comes within the jurisdiction of the juvenile court when he or she is chronically homeless and the parent or guardian is unwilling or unable to assist the child. By expanding the jurisdiction of the juvenile court to include these children, the bill would impose new duties on county child welfare service employees, thereby creating a state-mandated local program.

Existing law creates the Aid to Families with Dependent Children-Foster Care program, under which a combination of state, county, and federal funds, including funds provided under Title IV-E of the federal Social Security Act, are used to provide reimbursement to families and facilities providing foster care to eligible children.

This bill would declare the intent of the Legislature to provide a path for homeless youth to receive independent living skills services from

homeless youth shelters and group homes that specialize in providing services to homeless children and youth, and to secure federal funding for the provision of these services under Title IV-E of the federal Social Security Act.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to provide a path
2 for homeless youth to receive independent living skill services
3 from homeless youth shelters and group homes that specialize in
4 providing services to homeless children and youth, and to secure
5 federal funding for the provision of these services under Title IV-E
6 of the Social Security Act (42 U.S.C. Sec. 671 et seq.).

7 SEC. 2. Section 300 of the Welfare and Institutions Code is
8 amended to read:

9 300. Any child who comes within any of the following
10 descriptions is within the jurisdiction of the juvenile court which
11 may adjudge that person to be a dependent child of the court:

12 (a) The child has suffered, or there is a substantial risk that the
13 child will suffer, serious physical harm inflicted nonaccidentally
14 upon the child by the child’s parent or guardian. For the purposes
15 of this subdivision, a court may find there is a substantial risk of
16 serious future injury based on the manner in which a less serious
17 injury was inflicted, a history of repeated inflictions of injuries on
18 the child or the child’s siblings, or a combination of these and other
19 actions by the parent or guardian which indicate the child is at risk
20 of serious physical harm. For purposes of this subdivision, “serious
21 physical harm” does not include reasonable and age-appropriate
22 spanking to the buttocks where there is no evidence of serious
23 physical injury.

1 (b) The child has suffered, or there is a substantial risk that the
2 child will suffer, serious physical harm or illness, as a result of the
3 failure or inability of his or her parent or guardian to adequately
4 supervise or protect the child, or the willful or negligent failure of
5 the child's parent or guardian to adequately supervise or protect
6 the child from the conduct of the custodian with whom the child
7 has been left, or by the willful or negligent failure of the parent or
8 guardian to provide the child with adequate food, clothing, shelter,
9 or medical treatment, or by the inability of the parent or guardian
10 to provide regular care for the child due to the parent's or
11 guardian's mental illness, developmental disability, or substance
12 abuse. No child shall be found to be a person described by this
13 subdivision solely due to the lack of an emergency shelter for the
14 family. Whenever it is alleged that a child comes within the
15 jurisdiction of the court on the basis of the parent's or guardian's
16 willful failure to provide adequate medical treatment or specific
17 decision to provide spiritual treatment through prayer, the court
18 shall give deference to the parent's or guardian's medical treatment,
19 nontreatment, or spiritual treatment through prayer alone in
20 accordance with the tenets and practices of a recognized church
21 or religious denomination, by an accredited practitioner thereof,
22 and shall not assume jurisdiction unless necessary to protect the
23 child from suffering serious physical harm or illness. In making
24 its determination, the court shall consider (1) the nature of the
25 treatment proposed by the parent or guardian, (2) the risks to the
26 child posed by the course of treatment or nontreatment proposed
27 by the parent or guardian, (3) the risk, if any, of the course of
28 treatment being proposed by the petitioning agency, and (4) the
29 likely success of the courses of treatment or nontreatment proposed
30 by the parent or guardian and agency. The child shall continue to
31 be a dependent child pursuant to this subdivision only so long as
32 is necessary to protect the child from risk of suffering serious
33 physical harm or illness.

34 (c) The child is suffering serious emotional damage, or is at
35 substantial risk of suffering serious emotional damage, evidenced
36 by severe anxiety, depression, withdrawal, or untoward aggressive
37 behavior toward self or others, as a result of the conduct of the
38 parent or guardian or who has no parent or guardian capable of
39 providing appropriate care. No child shall be found to be a person
40 described by this subdivision if the willful failure of the parent or

1 guardian to provide adequate mental health treatment is based on
2 a sincerely held religious belief and if a less intrusive judicial
3 intervention is available.

4 (d) The child has been sexually abused, or there is a substantial
5 risk that the child will be sexually abused, as defined in Section
6 11165.1 of the Penal Code, by his or her parent or guardian or a
7 member of his or her household, or the parent or guardian has
8 failed to adequately protect the child from sexual abuse when the
9 parent or guardian knew or reasonably should have known that
10 the child was in danger of sexual abuse.

11 (e) The child is under the age of five years and has suffered
12 severe physical abuse by a parent, or by any person known by the
13 parent, if the parent knew or reasonably should have known that
14 the person was physically abusing the child. For the purposes of
15 this subdivision, “severe physical abuse” means any of the
16 following: any single act of abuse which causes physical trauma
17 of sufficient severity that, if left untreated, would cause permanent
18 physical disfigurement, permanent physical disability, or death;
19 any single act of sexual abuse which causes significant bleeding,
20 deep bruising, or significant external or internal swelling; or more
21 than one act of physical abuse, each of which causes bleeding,
22 deep bruising, significant external or internal swelling, bone
23 fracture, or unconsciousness; or the willful, prolonged failure to
24 provide adequate food. A child may not be removed from the
25 physical custody of his or her parent or guardian on the basis of a
26 finding of severe physical abuse unless the social worker has made
27 an allegation of severe physical abuse pursuant to Section 332.

28 (f) The child’s parent or guardian caused the death of another
29 child through abuse or neglect.

30 (g) The child has been left without any provision for support;
31 physical custody of the child has been voluntarily surrendered
32 pursuant to Section 1255.7 of the Health and Safety Code and the
33 child has not been reclaimed within the 14-day period specified
34 in subdivision (e) of that section; the child’s parent has been
35 incarcerated or institutionalized and cannot arrange for the care of
36 the child; or a relative or other adult custodian with whom the child
37 resides or has been left is unwilling or unable to provide care or
38 support for the child, the whereabouts of the parent are unknown,
39 and reasonable efforts to locate the parent have been unsuccessful.

1 (h) The child has been freed for adoption by one or both parents
2 for 12 months by either relinquishment or termination of parental
3 rights or an adoption petition has not been granted.

4 (i) The child has been subjected to an act or acts of cruelty by
5 the parent or guardian or a member of his or her household, or the
6 parent or guardian has failed to adequately protect the child from
7 an act or acts of cruelty when the parent or guardian knew or
8 reasonably should have known that the child was in danger of
9 being subjected to an act or acts of cruelty.

10 (j) The child's sibling has been abused or neglected, as defined
11 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
12 that the child will be abused or neglected, as defined in those
13 subdivisions. The court shall consider the circumstances
14 surrounding the abuse or neglect of the sibling, the age and gender
15 of each child, the nature of the abuse or neglect of the sibling, the
16 mental condition of the parent or guardian, and any other factors
17 the court considers probative in determining whether there is a
18 substantial risk to the child.

19 (k) *The child is chronically homeless and the parent or guardian*
20 *is unwilling or unable to assist the child.*

21 It is the intent of the Legislature that nothing in this section
22 disrupt the family unnecessarily or intrude inappropriately into
23 family life, prohibit the use of reasonable methods of parental
24 discipline, or prescribe a particular method of parenting. Further,
25 nothing in this section is intended to limit the offering of voluntary
26 services to those families in need of assistance but who do not
27 come within the descriptions of this section. To the extent that
28 savings accrue to the state from child welfare services funding
29 obtained as a result of the enactment of the act that enacted this
30 section, those savings shall be used to promote services which
31 support family maintenance and family reunification plans, such
32 as client transportation, out-of-home respite care, parenting
33 training, and the provision of temporary or emergency in-home
34 caretakers and persons teaching and demonstrating homemaking
35 skills. The Legislature further declares that a physical disability,
36 such as blindness or deafness, is no bar to the raising of happy and
37 well-adjusted children and that a court's determination pursuant
38 to this section shall center upon whether a parent's disability
39 prevents him or her from exercising care and control. The
40 Legislature further declares that a child whose parent has been

1 adjudged a dependent child of the court pursuant to this section
2 shall not be considered to be at risk of abuse or neglect solely
3 because of the age, dependent status, or foster care status of the
4 parent.

5 As used in this section, “guardian” means the legal guardian of
6 the child.

7 SEC. 3. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.