

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 522

Introduced by Senator Hueso

February 21, 2013

An act to amend Sections 1527, 1527.3, and 1527.4 of, and to add Section 1527.35 to, the Health and Safety Code, ~~and to amend Section 366.1 of the Welfare and Institutions Code,~~ relating to juveniles: *foster children*.

LEGISLATIVE COUNSEL'S DIGEST

SB 522, as amended, Hueso. ~~Dependent children.~~ *Foster Family Home and Small Family Home Insurance Fund.*

Existing law establishes within the State Department of Social Services the Foster Family Home and Small Family Home Insurance Fund for the purposes of paying, on behalf of foster family homes and small family homes, as defined, claims of foster children, their parents, guardians, or guardians ad litem resulting from occurrences peculiar to the foster care relationship and the provision of foster care services. Under existing law, the fund is not liable for any loss arising out of a dishonest, fraudulent, criminal, or intentional act of any person, or for damages of more than \$300,000 for any single foster family home or small family home for all claims arising due to one or more occurrences during a single calendar year.

This bill would narrow that limitation on the liability of the fund to exclude only a loss arising out of a dishonest, fraudulent, criminal, or intentional act of a foster parent, except as specified. The bill would

also limit the liability of the fund to damages of no more than \$300,000 for any single home for all claims arising during a consecutive 12-month period, instead of during a single calendar year. The bill would require that multiple incidents of a general course of conduct be considered one occurrence, regardless of the period of time during which the acts transpired, and would provide that the fund shall be liable only once for damages arising from that one occurrence.

~~Existing federal law, the Social Security Act, provides for benefits for eligible beneficiaries, including Supplemental Security Income (SSI) benefits for, among others, blind and disabled children. The act authorizes a person or entity to be appointed as a representative payee for a beneficiary who cannot manage or direct the management of his or her money. Existing law requires a county to apply to become a child's representative payee for purposes of these federal benefits during the time the child is placed in foster care.~~

~~Existing law establishes the jurisdiction of the juvenile court, which is authorized to adjudge certain children to be dependents of the court under certain circumstances, and prescribes various hearings and other procedures for these purposes, including the periodic review of the status of every dependent child in foster care, as determined by the court. Existing law requires a supplemental report, with prescribed contents, to be filed in connection with this review, as specified.~~

~~This bill would require the supplemental report to include information regarding whether the county has applied to become the child's representative payee for SSI benefits and whether the county, or any individual known to the county, has been appointed to serve as the representative payee for a child who is receiving SSI benefits while in the county's custody.~~

~~By requiring counties to provide additional information in supplemental reports, this bill would impose a state-mandated local program.~~

~~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-no*.

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

1 SECTION 1. Section 1527 of the Health and Safety Code is
2 amended to read:

3 1527. As used in this article:

4 (a) "Aircraft" includes, but is not limited to, any airplane, glider,
5 or hot air balloon.

6 (b) "Bodily injury" means any bodily injury, sickness, or disease
7 sustained by any person including death at any time resulting
8 therefrom.

9 (c) "Foster child" means a person under 19 years of age who
10 has been placed in the care and supervision of licensed foster
11 parents.

12 (d) "Foster parent" means the person, and including his or her
13 spouse if the spouse is a resident of the same household, providing
14 care, custody, and control of a foster child in a licensed foster
15 family home or licensed small family home, as defined in Section
16 1502 of the Health and Safety Code.

17 (e) "Occurrence" means an accident, including continuous or
18 repeated exposure to conditions, which results in bodily injury or
19 personal injury neither expected nor intended by the foster parent.
20 Multiple incidents of a general course of conduct shall be
21 considered one occurrence, regardless of the period of time during
22 which the acts transpired.

23 (f) "Motor vehicle" means an automobile, motorcycle, moped,
24 midget automobile, including the type commonly referred to as a
25 kart, go-kart, speedmobile, or by a comparable name whether
26 commercially built or otherwise, trailer or semitrailer designed for
27 travel on public roads, including any machinery or apparatus
28 attached thereto, or snowmobile.

29 (g) "Personal injury" means any injury to the feelings or
30 reputation of any person or organization arising out of libel,
31 slander, defamation, or disparagement, wrongful eviction, or entry.

32 (h) "Property damage" means any physical injury to, or
33 destruction of, tangible property, including the loss of use thereof
34 at any time resulting therefrom.

35 (i) "Watercraft" includes, but is not limited to, any boat, ship,
36 raft, or canoe, whether motorized or not.

37 SEC. 2. Section 1527.3 of the Health and Safety Code is
38 amended to read:

1 1527.3. The fund shall not be liable for any of the following:

2 (a) Any loss arising out of a dishonest, fraudulent, criminal, or
3 intentional act of a foster parent.

4 (b) Any occurrence that does not arise from the foster-care
5 relationship.

6 (c) Any bodily injury arising out of the operation or use of any
7 motor vehicle, aircraft, or watercraft owned or operated by, or
8 rented or loaned to, any foster parent.

9 (d) Any loss arising out of licentious, immoral, or sexual
10 behavior on the part of a foster parent intended to lead to, or
11 culminating in, any sexual act.

12 (e) Any allegation of alienation of affection against a foster
13 parent.

14 (f) Any loss or damage arising out of occurrences prior to
15 October 1, 1986.

16 (g) Exemplary damages.

17 (h) Any liability of a foster parent that is uninsured due solely
18 to the foster parent’s failure to obtain insurance specified in Section
19 676.7 of the Insurance Code. Nothing in this subdivision shall be
20 construed to expand the liability of the fund with respect to insured
21 foster parents.

22 SEC. 3. Section 1527.35 is added to the Health and Safety
23 Code, immediately following Section 1527.3, to read:

24 1527.35. The fund shall not be liable for any loss arising out
25 of the dishonest, fraudulent, criminal, or intentional act of any
26 person if the date of the loss is prior to July 1, 2013.

27 SEC. 4. Section 1527.4 of the Health and Safety Code is
28 amended to read:

29 1527.4. Notwithstanding any other provision of this article,
30 the fund shall not be liable for damages in excess of three hundred
31 thousand dollars (\$300,000) for any single foster family home or
32 small family home for all claims arising due to one or more
33 occurrences during any consecutive 12-month period. The fund
34 shall be liable only once for damages arising from one occurrence.

35 ~~SEC. 5. Section 366.1 of the Welfare and Institutions Code is~~
36 ~~amended to read:~~

37 ~~366.1. Each supplemental report required to be filed pursuant~~
38 ~~to Section 366 shall include, but not be limited to, a factual~~
39 ~~discussion of each of the following subjects:~~

- 1 ~~(a) Whether the county welfare department social worker has~~
2 ~~considered child protective services, as described in Chapter 5~~
3 ~~(commencing with Section 16500) of Part 4 of Division 9, as a~~
4 ~~possible solution to the problems at hand, and has offered those~~
5 ~~services to qualified parents, if appropriate under the circumstances.~~
6 ~~(b) What plan, if any, for the return and maintenance of the~~
7 ~~child in a safe home is recommended to the court by the county~~
8 ~~welfare department social worker.~~
9 ~~(c) Whether the subject child appears to be a person who is~~
10 ~~eligible to be considered for further court action to free the child~~
11 ~~from parental custody and control.~~
12 ~~(d) What actions, if any, have been taken by the parent to correct~~
13 ~~the problems that caused the child to be made a dependent child~~
14 ~~of the court.~~
15 ~~(e) If the parent or guardian is unwilling or unable to participate~~
16 ~~in making an educational decision for his or her child, or if other~~
17 ~~circumstances exist that compromise the ability of the parent or~~
18 ~~guardian to make educational decisions for the child, the county~~
19 ~~welfare department or social worker shall consider whether the~~
20 ~~right of the parent or guardian to make educational decisions for~~
21 ~~the child should be limited. If the supplemental report makes that~~
22 ~~recommendation, the report shall identify whether there is a~~
23 ~~responsible adult available to make educational decisions for the~~
24 ~~child pursuant to Section 361.~~
25 ~~(f) (1) Whether the child has any siblings under the court's~~
26 ~~jurisdiction, and, if any siblings exist, all of the following:~~
27 ~~(A) The nature of the relationship between the child and his or~~
28 ~~her siblings.~~
29 ~~(B) The appropriateness of developing or maintaining the sibling~~
30 ~~relationships pursuant to Section 16002.~~
31 ~~(C) If the siblings are not placed together in the same home,~~
32 ~~why the siblings are not placed together and what efforts are being~~
33 ~~made to place the siblings together, or why those efforts are not~~
34 ~~appropriate.~~
35 ~~(D) If the siblings are not placed together, the frequency and~~
36 ~~nature of the visits between siblings.~~
37 ~~(E) The impact of the sibling relationships on the child's~~
38 ~~placement and planning for legal permanence.~~
39 ~~(2) The factual discussion shall include a discussion of indicators~~
40 ~~of the nature of the child's sibling relationships, including, but not~~

1 limited to, whether the siblings were raised together in the same
 2 home, whether the siblings have shared significant common
 3 experiences or have existing close and strong bonds, whether either
 4 sibling expresses a desire to visit or live with his or her sibling, as
 5 applicable, and whether ongoing contact is in the child's best
 6 emotional interests.

7 (g) Whether a child who is 10 years of age or older and who
 8 has been in an out-of-home placement for six months or longer
 9 has relationships with individuals other than the child's siblings
 10 that are important to the child, consistent with the child's best
 11 interests, and actions taken to maintain those relationships. The
 12 social worker shall ask every child who is 10 years of age or older
 13 and who has been in an out-of-home placement for six months or
 14 longer to identify any individuals other than the child's siblings
 15 who are important to the child, consistent with the child's best
 16 interest. The social worker may ask any other child to provide that
 17 information, as appropriate.

18 (h) The implementation and operation of the amendments to
 19 subdivision (g) enacted at the 2005-06 Regular Session shall be
 20 subject to appropriation through the budget process and by phase,
 21 as provided in Section 366.35.

22 (i) Whether the county has applied to become the child's
 23 representative payee for Supplemental Security Income (SSI)
 24 benefits and whether the county, or any other individual known
 25 to the county, has been appointed by the federal Social Security
 26 Administration to serve as the representative payee for a child who
 27 is receiving SSI benefits while in the county's custody.

28 SEC. 6. — If the Commission on State Mandates determines
 29 that this act contains costs mandated by the state, reimbursement
 30 to local agencies and school districts for those costs shall be made
 31 pursuant to Part 7 (commencing with Section 17500) of Division
 32 4 of Title 2 of the Government Code.