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April 23, 2024

The Honorable Buffy Wicks
Chair, Assembly Appropriations Committee
Hon. Committee Members
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: AB 3145 (BRYAN) – SPONSORSHIP AND SUPPORT

Dear Chair Wicks and Honorable Committee Members:

The Children's Advocacy Institute at the University of San Diego School of Law, which has sought to advance the well-being of California's children through legal education, advocacy, and litigation for over 30 years, is honored to sponsor AB 3145 (Bryan) and respectfully asks for your support for this critical measure, as it has been amended as a result of welcome and insightful input from and collaboration with your Committee.

SUMMARY OF COST SAVINGS OFFERED BY THE BILL

In its bombshell report about the taxpayer-funded parenting services addressed by this bill, *The Los Angeles Times* correctly observed:

Although [national research](#) shows that some parenting classes can help prevent child abuse and keep deserving families together, in California they often amount to an over-prescribed bureaucratic remedy with no clear track record of success. Participation in them can sway custody rulings despite a lack of oversight and data, according to more than 20 child welfare experts who spoke to *The Times*, including social workers, attorneys, retired judges, parents and providers.

“This is the big myth of child welfare,” said David Myers, a Modesto-based attorney who has represented parents involved with child protective services for 30 years.

Most of the parenting classes that his clients are required to complete are assigned with a “cookie cutter” approach, he said, and are “a waste of taxpayer dollars.”¹

The point of parenting classes and related services is to prevent the child from becoming a foster child; to prevent a second involvement in child welfare. As discussed below, when, as is the case

¹ <https://www.latimes.com/california/story/2024-01-04/california-child-abuse-parenting-classes-unregulated>

statewide, there is no requirement that counties track *or even consider* the outcomes of the service providers they are selecting, that inevitably means that providers with unjustifiably high records of their parent clients returning again and again to the attention of child welfare will be selected. Avoiding such outcome-ineffective providers means fewer parents and children involved repeatedly in child welfare, and that means significant savings from just doing what they respectfully should be doing for cost and humanitarian reasons anyway.

BACKGROUND

Ensuring the services provided to families are of some minimal quality is especially important for our families of color. Black children in California make up 5.6% of the California population,² Yet, shockingly, in California the population of Black children represented in foster care is 20%.³

As described in detail below, a bombshell report published by *The Los Angeles Times* reveals that we have no factual basis for concluding that the millions of dollars we spend on helping families reunify with their children actually help those families. Nor do we have any factual basis for concluding that when a parent successfully completes court-ordered services, it is predictably safe to return a child to the parent's care. As *The Times* revealed:

The state does not ensure that parent education programs [in dependency proceedings] meet any sort of standards, allows parents facing abuse allegations to take classes that experts have deemed low quality, and cannot provide research evidence for half the programs listed in a state-funded database meant to act as a key tool for local officials to ensure child safety.

In Dependency Court “Services” Are Central To Whether Parents Get Their Children Back

In dependency court, whether parents will be able to reunify with their children or whether their parental rights will be terminated hinges to a large degree on compliance with a case plan that includes services designed to address the issues placing children at risk of abuse or neglect. These services can range from parenting classes to drug counseling to mental health; whatever services are reasonably needed to ensure reuniting a child with their parents will be safe for the child are supposed to be provided by the county.

The foundational nature of services is illustrated by these excerpts from the recent case of *In re M.F.* (2019) 32 Cal.App.5th 1, 13–14:

Family reunification services play a critical role in dependency proceedings. (§ 361.5; *In re Alanna A.* (2005) 135 Cal.App.4th 555, 563, 37 Cal.Rptr.3d 579; *In re Joshua M.* (1998) 66 Cal.App.4th 458, 467, 78 Cal.Rptr.2d 110; see 42 U.S.C. § 629a(a)(7).) At the dispositional hearing, the court is required to order

² <https://ccwip.berkeley.edu/childwelfare/reports/Population/MTSG/r/rts/1> (select report options, then report output = percent; row dimension = ethnic group)

³ <https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTSG/r/ab636/1> (select report options, then report output = percent; row dimension = ethnic group)

the agency to provide child welfare services to the child and his or her parents. (§ 361.5, subd. (a).) Services “may include provision of a full array of social and health services to help the child and family and to prevent re-abuse of children.” (§ 300.2.) Reunification services should be tailored to the particular needs of the family. (*David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 793–794, 20 Cal.Rptr.3d336.)

At each review hearing, if the child is not returned to his or her parent, the juvenile court is required to determine whether “reasonable services that were designed to aid the parent ... in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent ...” (§§ 366.21, subds. (e)(8) & (f)(1)(A), 366.22, subd. (a).) The “adequacy of reunification plans and the reasonableness of the [Agency’s] efforts are judged according to the circumstances of each case.” (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164, 39 Cal.Rptr.2d 743.) To support a finding that reasonable services were offered or provided to the parent, “the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414, 286 Cal.Rptr. 592 (Riva M.); *Tracy J. v. Superior Court* (2012) 202 Cal.App.4th 1415, 1426, 136 Cal.Rptr.3d 505 (Tracy J.).)

Bombshell *The Los Angeles Times* Investigation

But what if the services being provided to parents are of poor or untested quality? If so, then a parent completing the offered services satisfactorily would not actually offer assurance that it is safe to return a child to the care of their parents. Likewise, the opinion of a poor or untested service provider that a parent has been unsuccessful in meeting the goals set by a service provider is not, in fact, a sound basis for forever severing a child from their parents.

As a bombshell investigation of *The Los Angeles Times* confirms, there is no requirement that the services we require parents to undergo are based on ... anything. No standards, no rules, no tracking of outcomes. Nothing. As *The Los Angeles Times* writes:

Parenting classes are routinely ordered in child abuse cases. California isn’t ensuring they work ...

The lack of scrutiny can put some of California’s most vulnerable children — those whose parents are fighting for custody while under investigation by protective services — at risk of more abuse.

“I don’t think judges look very closely at the quality of the parenting classes,” said former Judge Leonard Edwards, who oversaw child abuse cases for decades before retiring from Santa Clara County Superior Court in 2006.

“It’s sort of a rubber stamp in most cases.” ...

California’s approach has some leading experts stunned.

“Why would you send a family to a parenting class that either you know is not effective or you have no evidence that it is? That doesn’t make a lot of sense,” said Amy Dworsky, a nationally recognized researcher at Chapin Hall at the University of Chicago, a policy research institution with a focus on child welfare.

“I don’t think it’s too much to demand that when families are being referred to services that we have some sense that those services are effective.”⁴

The Children’s Advocacy Institute has verified *The Los Angeles Times* investigation. Our memo can be found here: <https://tinyurl.com/Research-Memo>.

Several sources within academia confirmed over email to the Institute that they had no knowledge of any publicly available record of California counties’ procedures in tracking qualifications or outcomes of individual service providers. These include Professor Jacquelyn McCrosky,⁵ Dr. Lindsey Palmer,⁶ and Dr. Daniel Webster of the California Child Welfare Indicators Project at UC Berkeley.⁷ Dr. Webster, notably, recalled that the California Department of Social Services (CDSS) was at one point working on an internal analysis of differential outcomes across service providers. We inquired with the CDSS Child Welfare Services/Case Management System Administrative Oversight Unit via email to see if they have any additional information regarding this internal analysis, but received no response.

What Happened When There Was A Similar Bombshell Report About County Probation Services?

A 2023 *CalMatters* investigative report came to eerily similar revelations about county probation programs:

California spent \$600 million to house and rehab former prisoners — but can’t say whether it helped

The state does not collect data on whether parolees who participate in the program have found jobs or whether they are returned to prison for another crime. What state data does show is that only 40% of participants completed at least one of the services they were offered.⁸

⁴<https://www.latimes.com/california/story/2024-01-04/california-child-abuse-parenting-classes-unregulated>

⁵ Professor McCrosky’s profile can be found at <https://pressroom.usc.edu/jacquelyn-mccroskey/>; email archived at <https://drive.google.com/file/d/1g5kleQFMscvYZBJZTDu2pZdOrgwxqHr4/view?usp=sharing>.

⁶ Dr. Palmer’s profile can be found at <https://www.solutionsnetwork.psu.edu/t32-grant/fellows>; email archived at https://drive.google.com/file/d/1rXmih9F1iN3joYd6WMIYmm1ihTRMGZfq/view?usp=share_link.

⁷ Dr. Webster’s profile can be found at <https://socialwelfare.berkeley.edu/people/daniel-webster>; email archived at https://drive.google.com/file/d/1oQN3ZZ8UaP08JnHUUAv5svfAw8yMuMqU/view?usp=share_link.

⁸ <https://calmatters.org/justice/2023/07/california-prisoner-rehabilitation-centers/>

In this instance, the State acted swiftly. The *CalMatters* story “prompted the California Department of Corrections and Rehabilitation to monitor parolees’ job outcomes and re-incarceration rates, verify providers’ licenses, and inspect the 450 treatment centers funded by the state.”⁹

Will the State now respond in a similar, swift, and common-sense fashion to aid the families of our allegedly abused and neglected children?

That’s the question posed by AB 3145 (Bryan).

Gaps In California Law

California law does not require counties to perform any kind for tracking outcome data for individual service providers and the State has enacted only minimal, largely aspirational, statutory standards for service provider qualifications and outcomes.

The relevant legal requirements for services are set out in Welfare and Institutions Code § 16500.5. The statutory language is extremely broad, requiring that services selected be only “reasonable and meritorious,” and providing general aspirational goals for those services. Chapter 5 of the Welfare and Institutions Code, under which § 16500.5 falls, does not have a dedicated definitions section that might meaningfully narrow the scope of that language.

The statute provides some quantitative measures for evaluating the success of county programs, but they are inadequate. For example, for a county’s program to be deemed a success under the statute, at least 60% of children receiving services must remain in their home one year after the termination of services.¹⁰ However, there are two problems with that metric:

- ***The metric refers to the county’s program as a whole and does not mandate particular qualifications or outcomes scrutiny for individual service providers.***¹¹ Mathematically, just as a person can drown in a lake with the average depth of half an inch, the excellent performance of two county service providers could mathematically raise the overall average, masking stubbornly terrible performances of other individual providers.¹²
- ***The metrics measure only catastrophic failure not success.*** The metric deems a county’s program to be “successful” if no more than 60% of children end-up back in

⁹ https://calmatters.org/inside-the-newsroom/2024/03/old-fashioned-reporting-humanity-power-calmatters-investigation/?utm_medium=email&utm_source=ActiveCampaign&utm_content=Investigating+a+tragic+death+wit+hin+California+s+parole+system&utm_campaign=Weekly+Matters

¹⁰ Welfare and Institutions Code § 16500.5(c)(5): “The program in each county shall be deemed successful if it meets the following standards: (D) During the first year after services are terminated: (i) At least 60 percent of the children receiving services remain at home one year after services are terminated.”

¹¹ Cal. Welf. & Inst. Code § 16500.5(c) (2019), [https://www.westlaw.com/Document/I0EBBF4308E1C11ECABECC71A999E25F8/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I0EBBF4308E1C11ECABECC71A999E25F8/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0).

¹² Take a class of ten students where four received 100 points out of 100 possible points on an exam. Presume three more received a score of 85, two a score of 30, and one a score of 10. The total is 725. Divided by 10, that results in an average of 72.5, a score that masks the poor performance of three of the ten students (the students who scored 30, 30, and 10).

child welfare and are removed from the home within one year of being returned to their parents. Said another way, if 39% of the time children are within just one year again involved in child welfare and removed from their home, that result is “success” under current law.

But, this 40% measures near-catastrophic failure not success. Overwhelmingly, child welfare involvement is prompted by third-party reports of abuse and neglect.¹³ For a child to be removed from their home by child welfare services again within a year would mean that a new report by a teacher, physician, or other mandated reporter would have to be filed, investigated, a case opened, and a child removed, all within twelve months. And, only in the worst cases are children removed from their homes.

There are only two ways all this could happen in so short a time: (i) the report of abuse was so awful the child was removed on an emergency or nearly emergency basis or (ii) reports from third parties were filed very soon after the child was returned home. If either of these are happening nearly 40% of the time in a county, that possibly reveals foundational problems with the services being provided to parents. It certainly does not reveal a “successful” program.

California Government Code § 31000 provides an additional, but incredibly broad, guideline, requiring that county boards contract only with service providers that are “specially trained, experienced, expert and competent to perform the special services.”¹⁴

CONCLUSION: PLEASE VOTE FOR AB 3145 (BRYAN) AS AMENDED

AB 3145 (Bryan) as amended requires only that counties do the bare minimum when it comes to ensuring parents are actually helped by service providers. The bill now does three things:

- Requires that counties actually examine the track record of a possible service provider at the time they are retained and then review their track record every three years,
- Requires disclosure of such tracking in already-required annual reporting, and
- Requires a metric that is far better tailored to detect if there are problems in a county’s provision of services. It proposes we measure the following we identify if any of the following happened during the first year after a child is returned to live with their parents:

(iii) No more than 25 percent of children whose parents or guardian received services are children who meet any of the following circumstances, with that percentage limit separately applicable to each circumstance:

(I) Are taken from the physical custody of their parents or guardian pursuant to Section 364.

¹³ <https://theacademy.sdsu.edu/wp-content/uploads/2015/01/understanding-cws.pdf>.

¹⁴ Cal. Gov’t Code § 31000 (2005), <https://law.justia.com/codes/california/2005/gov/31000-31011.html#:~:text=GENERAL,-GOVERNMENT%20CODE&text=31000.,or%20court%20in%20the%20county>.

(II) Are removed from the physical custody of their parents or guardian pursuant to Section 361.

(III) Are determined to probably soon be within the jurisdiction of the juvenile court pursuant to Section 301.

(IV) Have been adjudged wards of the court pursuant to Section 601 or 602.

(V) Are families of children subject to Sections 726 and 727.

(VI) Are children who are determined to require out-of-home placement.

If a mere quarter of children receiving services meet any one of these metrics within just the first year after services were provided at taxpayer expense, this must at minimum be a cause for inquiry given that the stakes are for the child life-or-death: whether to return them, a vulnerable child, to a possibly troubled family. Likewise, from the perspective of parents who will yearn for and have constitutional rights to a relationship with their child, these measures will sound the alarm of whether the services we provide them actually help.

Please vote for AB 3145 (Bryan). Our families and children deserve basic due diligence in tracking the quality of the services we pay for to help them. It is the right thing to do, both fiscally and morally.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Howard', written in a cursive style.

ED HOWARD
Senior Counsel, Children's Advocacy Institute