

June 21, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 21-69

The purpose of this All County Letter is to inform county child welfare agencies and juvenile probation departments of amendments to Health and Safety Code Section 1530.91 and Welfare and Institution Code Sections 16001.9 and 16164, as prescribed by Assembly Bill 175, that clarify the authority and responsibilities of the Office of the State Foster Care Ombudsperson, and expand, clarify, and revise the rights of foster youth found under the Foster Youth Bill of Rights.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

June 21, 2021

ALL COUNTY LETTER NO. 21-69

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL INDEPENDENT LIVING PROGRAM MANAGERS
ALL INDEPENDENT LIVING PROGRAM COORDINATORS
ALL FOSTER CARE MANAGERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL TRANSITIONAL HOUSING COORDINATORS

SUBJECT: NEW AND UPDATED FOSTER YOUTH PERSONAL RIGHTS
AND OFFICE OF THE FOSTER CARE OMBUDSPERSON
RESPONSIBILITIES

REFERENCE: [ASSEMBLY BILL 175 \(CHAPTER 416, STATUTES OF 2019\)\(AB 175\); ASSEMBLY BILL 2119 \(CHAPTER 385, STATUTES OF 2018\)\(AB 2119\); ASSEMBLY BILL 1067 \(CHAPTER 861, STATUTES OF 2016\)\(AB 1067\); SENATE BILL 731 \(CHAPTER 805, STATUTES OF 2015\)\(SB 731\); SENATE BILL 528 \(CHAPTER 338, STATUTES OF 2013\)\(SB 528\); ASSEMBLY BILL 1856 \(CHAPTER 239, STATUTES OF 2012\)\(AB 1856\); SENATE BILL 1353 \(CHAPTER 557, STATUTES OF 2010\)\(SB 1353\); ASSEMBLY BILL 1412 \(CHAPTER 640, STATUTES OF 2005\)\(AB 1412\); SENATE BILL 1639 \(CHAPTER 668, STATUTES OF 2004\)\(SB 1639\); ASSEMBLY BILL 458 \(CHAPTER 331, STATUTES OF 2003\)\(AB 458\); ASSEMBLY BILL 899 \(CHAPTER 683, STATUTES OF 2001\)\(AB 899\); SENATE BILL 933 \(CHAPTER 311, STATUTES OF 1998\)\(SB 933\); HEALTH AND SAFETY CODE \(HSC\) SECTION 1530.91; WELFARE AND INSTITUTION CODE \(WIC\) SECTIONS 16001.9, 16161, AND 16164;](#)

PURPOSE

The purpose of this All County Letter (ACL) is to inform county child welfare agencies and juvenile probation departments of amendments to Welfare and Institutions Code (WIC) Sections 16001.9 and 16164, and corresponding amendments to Health and Safety Code (HSC) Section 1530.91, as prescribed by Assembly Bill (AB) 175. These

amendments clarify the authority and responsibilities of the Office of the State Foster Care Ombudsperson (OFCO), and expand, clarify, and revise the rights of foster youth¹ found under the Foster Youth Bill of Rights (FYBOR). With the passage of AB 175, fourteen rights reflecting existing law related to foster youth placement, trauma informed care, application of the Indian Child Welfare Act (ICWA), provision of health services, and application of the child and family team (CFT), among others, were incorporated into the FYBOR. Further, the bill amended language to reflect existing law regarding youth's sexual orientation and gender expression and identity (SOGIE) and ICWA status. The revised FYBOR in its entirety, with annotations as to the specific changes made to WIC Section 16001.9, is included as Attachment A to this letter.

BACKGROUND

In 1998, as part of omnibus child welfare legislation (Senate Bill (SB) 933), the Legislature directed the California Department of Social Services (CDSS) to establish the OFCO. The primary purpose of the OFCO is to provide "children who are placed in foster care, either voluntarily or pursuant to Section 300 or Section 600 and following, with a means to resolve issues related to their care, placement, or services." (WIC Section 16161.) The OFCO is designed to operate within the CDSS but as an autonomous entity. (WIC Section 16161.)

Subsequent to the establishment of the OFCO, the Legislature adopted California's FYBOR (WIC Section 16001.9) with the passage of AB 899. This bill identified 21 personal rights for foster youth that corresponded to laws in existence at the time. The bill also established the requirement that the OFCO develop age and developmentally appropriate materials informing foster youth about their rights and to disseminate these materials. The information was also required to be posted in any facility licensed to provide care for six or more foster children. Additionally, AB 899 created a requirement in WIC Section 16501.1 for child welfare social workers and probation officers to inform foster youth of their rights in an age-appropriate manner at least once every six months after entry into foster care. In 2016, the passage of AB 1067 amended WIC Section 16501.1 to require the advisement of rights be given to the foster youth's caregivers and CFT, as well as the youth. The bill also added a requirement that the advisement be given at every placement change as well as at least once every six months.

Since it was originally enacted, the FYBOR has been amended multiple times to reflect changes in laws that have expanded the personal rights of foster youth. These changes include, but are not limited to:

- Addition of an anti-discrimination provision (AB 458);

¹ "Foster youth" refers to all children and nonminor dependents placed in licensed or approved children's residential facilities, approved supervised independent living placements, or approved resource family homes.

- Addition of a right for youth age 16 years and older to have access to existing information regarding the educational and financial aid options for vocational and postsecondary education (SB 1639);
- Addition of a right for foster youth to be involved in the development of their case plans and for youth 12 years of age and older to review their case plan (AB 1412);
- Addition of rights related to educational stability (SB 1353);
- Addition of a right to have caregivers and child welfare personnel trained on cultural competency and sensitivity to the provision of care for lesbian, gay, bisexual and transgender (LGBTQ) youth in foster care (AB 1856);
- Addition of a right for foster youth age 12 years and older to have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections (SB 528);
- Addition of a right to be placed according to gender identity regardless of the sex listed on their court or child welfare records (SB 731); and
- Addition of a right of access to gender-affirming health and mental health care (AB 2119).

In 2016, the Legislature unanimously passed AB 1067 and it was signed into law by Governor Edmond G. Brown on September 30, 2016. Assembly Bill 1067 enacted WIC Section 16001.8, which mandated that the CDSS convene a working group to update the FYBOR. The working group was directed to 1) make recommendations for revising the FYBOR based on a review of state law; 2) develop standardized information regarding the revised rights in an age-appropriate manner and reflective of any relevant licensing requirements with respect to the foster care providers' responsibilities to adequately supervise children in care; 3) develop recommendations regarding methods for disseminating the standardized information; and 4) develop recommendations for measuring and improving, if necessary, the degree to which foster youth are adequately informed of their rights. The CDSS was required to submit these recommendations to the Legislature.

The working group's efforts and recommendations were summarized in the CDSS's [Foster Children Rights Report to the Legislature \(2019\)](#). That report recommended changes to the FYBOR, the authority and responsibilities of the OFCO as described in WIC Section 16164, and the requirements for posting the FYBOR in facilities caring for

six or more foster youth contained in HSC Section 1530.91. These recommendations were incorporated into AB 175 with minor modifications.

The resulting amendments to the FYBOR and the OFCO implemented by the passage of AB 175 serve to ensure that youth and nonminor dependents are properly informed of their rights under current law while in foster care. The amendments to the FYBOR reflect updates to child welfare and related laws and reorganized WIC Section 16001.9 to maintain related rights next to each other within the statute.

Assembly Bill 175 amended WIC Section 16164 to require the OFCO, counties, and foster care providers to use the standardized materials created by the OFCO when carrying out their responsibilities related to informing foster youth of their rights. The amendments to HSC Section 1530.91 implement those requirements for licensed facilities that provide care for six or more children.

The remaining amendments to WIC Section 16164 strengthen the confidentiality of the OFCO and impose additional responsibilities on the office. The amendments to the responsibilities of the OFCO will be addressed in more detail in a separate ACL to be issued by the OFCO.

COUNTY CHILD WELFARE AGENCY AND PROBATION DEPARTMENT REQUIREMENTS

The passage of AB 175 codified within the FYBOR existing rights established elsewhere in statute. In that regard, most provisions did not create additional responsibilities for social workers and probation officers. The AB 175 requires case workers (and care providers) to use the publications developed by the OFCO when reviewing the rights with children and nonminor dependents. Publications of the FYBOR may be ordered by contacting the OFCO by phone at (877) 846-1602 or by using the online publication request form found on the OFCO website at fosteryouthhelp.ca.gov. Please note, while all these materials may be ordered at the OFCO website, the handbooks and coloring books are available for immediate download. For technical reasons the accordion pamphlet and the posters are currently unavailable for download.

As part of case-planning responsibilities, subdivision (g)(4) of WIC Section 16501.1 requires county child welfare agencies and probation departments to inform foster youth of their rights in an age and developmentally appropriate manner at least once every six months and at every placement change. Social workers and probation officers are also required to provide a copy of the rights as part of the explanation. They also must inform foster youth of the role and purpose of the OFCO, as well as provide the contact information for the office. While these are not new responsibilities for county child welfare agencies and probation departments, foster youths' reciprocal right to receive the information is newly contained in the FYBOR, at WIC Section 16001.9, subdivision

(a)(40). Additionally, if the youth is aged 14 years or older, the social worker and probation officer must get the child's or nonminor dependent's signature in the case plan (WIC Section 16001.9(a)(38) and (39)).

Two amendments gave foster youth a right to copies of records at no cost to the youth. Subdivision (a)(22)(B) of WIC Section 16001.9 now provides that, where youth have a right to consent to medical treatment, they also have a right to copies of their medical records at no cost to the foster youth until age 26 years. Similarly, subdivision (a)(36) gives foster youth the right to copies of their juvenile court and educational records at no cost to the youth until age 26 years. County child welfare and probation departments are responsible for protecting foster youth's rights. They therefore must develop policies and procedures to ensure that all foster youth are able to view their child welfare records and to receive copies of those records until they reach the age of 26 years.

FOSTER YOUTH BILL OF RIGHTS

The AB 175 revisions organized the FYBOR thematically, included rights afforded under the ICWA, and incorporated rights that flowed from existing changes to laws related to foster youth. Statutory language was changed to consistently use the word "child" and "nonminor dependent" as previous statutes had inconsistently used "child" and "youth," and to change gendered language (he/she) to gender-neutral languages "they," "them" and "their."

The OFCO has developed posters for facilities, a handbook and wallet size accordion pamphlet, and coloring book publications. These documents organize the rights into categories and are written in youth-friendly language. Further instruction on the use of these materials can be found within the FYBOR Handbook. The following sections of this letter identify those categories and the rights that fall within those categories. Each right is also cross-referenced to the correct subdivision of WIC Section 16001.9.

The FYBOR "does not require, and shall not be interpreted to require, a foster care provider to take any action that would impair the health and safety of children in out-of-home placement." (WIC Section 16001.9(c)). Thus, these rights are not absolute. The OFCO is available to provide training and technical assistance to county case workers and foster care providers when questions arise regarding the reasonable and prudent parenting standard, foster youth rights, and standards relating to foster youth's care, placement, and services.

PERSONAL RIGHTS

Children and nonminor dependents have the right to live in a safe, comfortable home where they are treated with respect (subdivision (a)(1)) and to have:

- Enough clothes and healthy food (subdivision (a)(3))
- Clothing, grooming, and hygiene products that respect the youth's culture, ethnicity, and gender identity (subdivision (a)(3))
- A private place to keep their belongings (subdivision (a)(9))
- A phone they can use to make private calls unless prohibited by court order (subdivision (a)(13))
- A caregiver that is trained in and uses trauma-informed and evidence-based de-escalation and intervention techniques (subdivision (a)(7))

Children and nonminor dependents have the right to:

- Go/not go to religious services, activities and ceremonies of their choice (subdivision (a)(15))
- Participate in cultural, racial, ethnic, personal enrichment, and social activities (subdivision (a)(16))
- Fair and equal access to all available foster care services, placements, care, and benefits (subdivision (a)(17))
- Be free from law enforcement intervention when used as a threat or in retaliation against the child (subdivision (a)(7))

No one can:

- Lock them in any portion of their foster placement unless they are in a community treatment facility (subdivision (a)(6))
- Make a dependent child stay in juvenile hall because there is no other placement available for them (subdivision (a)(8))
- Use law enforcement as a threat or retaliation against the youth (subdivision (a)(7))
- Abuse them physically, sexually, emotionally, or exploit them for any reason (subdivision (a)(2))
- Punish them by physically hurting them for any reason (subdivision (a)(2))

- Look through their belongings unless they have a reasonable or legal reason (subdivision (a)(10))
- Treat them unfairly because of their race, ethnicity, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, HIV status, or membership in a federally recognized Indian tribe (subdivision (a)(17))
- Call law enforcement about their behavior unless the behavior presents an imminent threat to the life or safety of a child or another person (subdivision (a)(7))

INDIAN CHILD WELFARE ACT (ICWA)

Children and nonminor dependents have the right to:

- Live in a home or STRTP that maintains the social and cultural standards of their Tribe and tribal community (subdivision (a)(1))
- Live in a place that reflects and keeps them connected to the cultural and social standards of their Tribe and/or tribal community (subdivision (a)(1))
- Live in a home of their relatives or extended family or a home that is licensed, approved, or specified by their Tribe (subdivision (a)(1))
- Live in an Indian foster home that is licensed or approved, or a facility that is approved by their Tribe or an Indian organization that meets their needs (subdivision (a)(1))
- Contact and communicate privately with their ICWA advocate and have them attend court (subdivisions (a)(11) and (a)(34))
- Contact their Tribe, tribal members and members of their Indian community in ways that are consistent with the ways of life of their Tribe (subdivision (a)(14))
- Have a social worker/ probation officer, and lawyer who is trained in ICWA and on cultural competency and sensitivity to, and best practices for, providing adequate care to Indian children in out-of-home care (subdivision (a)(20))
- Participate in religious services, activities and ceremonies of their choice including traditional Native American religious practices (subdivision (a)(15))

- Get help becoming a member of an Indian tribe or Alaskan village (subdivision (a)(21))
- Get all the benefits that come from being a member of an Indian tribe or Alaskan village (subdivision (a)(21))
- Be free from discrimination and be recognized for their relationship with an Indian Tribe or Alaskan village (subdivision (a)(21))
- Have protections for their tribal relationship be included in their case plan (subdivision (a)(37))
- Get help in establishing, developing and maintaining political, cultural and social relationships with their Indian Tribe and Indian community (subdivision (a)(37))
- Contact and speak confidentiality with the tribal authority that approved the home in which they are placed (subdivision (a)(41))

SEXUAL ORIENTATION, GENDER IDENTITY & EXPRESSION (SOGIE)

Children and nonminor dependents have rights to protect their SOGIE, including:

- Have clothing, grooming, and hygiene products that respect their gender identity and expression (subdivision (a)(3))
- Participate in personal enrichment and LGBTQ+ social activities (subdivision (a)(16))
- Have a caregiver, social worker/probation officer, and lawyer that has been trained on SOGIE and how to care for LGBTQ+ youth (subdivision (a)(18))
- Live in a home or STRTP based on their gender identity (subdivision (a)(19))
- Be called by their chosen name and gender pronouns (subdivision (a)(19))
- Keep their SOGIE information private (subdivision (a)(19))
- See a doctor or counselor who is gender affirming (subdivision (a)(22))

EDUCATION

Children and nonminor dependents have educational rights, including:

- Go to school every day (subdivision (a)(27))
- Get help with school (subdivision (a)(27))
- Stay at their school of origin if that is what is best for them (subdivision (a)(27))
- Be enrolled in a new school without delay (subdivision (a)(27))
- Get partial credits for all classes they were passing if they change schools (subdivision (a)(27))
- Participate in extracurricular activities (subdivision (a)(27))
- Have priority enrollment in pre-school and afterschool programs (subdivision (a)(27))
- Have priority enrollment at California State Universities and community colleges (subdivision (a)(27))
- Access information about college and career education programs (subdivision (a)(28))

SEXUAL & REPRODUCTIVE HEALTH

Children and nonminor dependents have sexual health rights, including:

- Get information about their sexual health in a way that they understand (subdivision (a)(24)(A))
- Use or refuse services for birth control, condoms, other types of protection, and pregnancy care, including abortion, without telling an adult (subdivision (a)(24)(B))
- If they are 12 years or older, choose their own doctor or counselor, whenever feasible and in accordance with applicable law, and make decisions about preventing, testing, or treating sexually transmitted infections (STIs) and HIV without permission from any adult (subdivision (a)(24)(C))²

² For further information on healthy sexual development rights for children in foster care, please reference [ACL 16-82 Reproductive and sexual health care and related rights for youth and non-minor dependents](#)

MENTAL HEALTH

Children and nonminor dependents have mental health rights, including:

- Keep their mental health records private (subdivision (a)(26))
- Receive gender-affirming and LGBTQ+ supportive mental health treatment (subdivision (a)(22))
- Work with their doctor to safely stop taking psychotropic medication (subdivision (a)(23))
- Refuse to take psychotropic medication without consequences or retaliation (subdivision (a)(23))
- To receive explanations of their diagnosis and understand treatment options (subdivision (a)(22)(A))
- Receive mental health services in a place that meets their needs (subdivision (a)(22)(A))
- Receive help with alcohol or drug issues (subdivision (a)(22)(A))
- If they are 12 years or older, choose their own doctor or counselor and make decisions about their mental health treatment (subdivision (a)(25))

HEALTH

Children and nonminor dependents have health rights, including:

- See a doctor, dentist, eye doctor, or talk to a counselor when they need to (subdivision (a)(22))
- Receive gender-affirming health care (subdivision (a)(22))
- Refuse medication or chemical substances without consequences or retaliation (subdivision (a)(23))
- Keep their medical records private (subdivision (a)(26))
- Have the risks/benefits of treatment explained to them in a way that the youth can understand (subdivision (a)(22)(A))

COURT

Children and nonminor dependents have rights at court, including:

- Be told about court hearings in writing (subdivision (a)(34))
- Attend court and talk to the judge (subdivision (a)(34))
- Tell the judge what they want to have happen in their case (subdivision (a)(34))
- Tell the judge how they feel about their psychotropic medications (subdivision (a)(23))
- Ask the judge for visits with their siblings (subdivision (a)(12))
- Request a hearing if they feel like their lawyer is not acting in their best interest or adequately representing them (subdivision (a)(33))
- Ask for people to be in the courtroom or ask for people to leave the courtroom (subdivision (a)(34))
- Maintain the confidentiality of their court records consistent with existing law (subdivision (a)(35))
- Have their own lawyer, who does not represent their parents or the county (subdivision (a)(33))

Children and nonminor dependent's lawyers must:

- Maintain attorney-client privilege (subdivision (a)(33))
- Have special training on ICWA and SOGIE (subdivisions (a)(18) & (a)(20))
- Advocate for their clients' protection, safety and well-being (subdivision (a)(33))
- Inform the court of their clients' wishes (subdivision (a)(33))
- Answer questions their clients have about court, foster care, and other laws (subdivision (a)(33))
- Investigate and report to the court about any legal interests their clients have beyond the juvenile proceeding (subdivision (a)(33))

CASE PLAN

Children and nonminor dependents have the right to:

- Be involved in the development of their case plan (subdivision (a)(37))
- Have a case plan developed no more than 60 days after entering foster care (subdivision (a)(39)(A))
- Have their case plan updated at least every 6 months (subdivision (a)(39)(A))
- Be told of any changes to their case plan (subdivision (a)(38))
- Review their case plan if they are age 10 years and older (subdivision (a)(38))
- Have their Tribe involved in case plan decisions (subdivision (a)(37))

CHILD AND FAMILY TEAM

Children and nonminor dependents have the right to a CFT. They have the right to:

- Request CFT meetings (subdivision (a)(39))
- Have people who support them at their CFT meeting (subdivision (a)(39)(D))
- Talk about their needs in the CFT meeting (subdivision (a)(39)(C))
- Have a CFT meeting no more than 60 days after entering foster care (subdivision (a)(39)(A)) and have a CFT meeting every 6 months thereafter (subdivision (a)(39)(A))
- Have a CFT meeting at least every 90 days if they are in an STRTP or in a therapeutic foster home (subdivision (a)(39)(B))
- Have a CFT meeting at least every 90 days if they are receiving intensive home-based services or intensive case coordination (subdivision (a)(39)(B))
- To request a CFT meeting when any changes are going to be made to their case plan (subdivision (a)(39)(C))

FAMILY & SOCIAL CONNECTIONS

Children and nonminor dependents have the right to:

- Visit and contact their parents, siblings, and other family members in private unless prohibited by court order (subdivision (a)(12))
- Contact people who are not in the foster care system (e.g. friends, church members, teachers, coaches) unless prohibited by court order (subdivision (a)(14))

PREPARING FOR ADULTHOOD & MONEY MANAGEMENT

Children and nonminor dependents have the right to do some things on their own. They have the right to:

- An age-appropriate allowance (subdivision (a)(3))
- Their own bank account unless prohibited by their case plan (subdivision (a)(30))
- Earn, save, and manage their money unless prohibited by their case plan (subdivision (a)(30))
- Learn age-appropriate job skills (subdivision (a)(31))
- Work consistent with state law (subdivision (a)(31))
- Participate in Independent Living Program classes and activities, as permitted based on the youth's age, and to not be prohibited from participating as a consequence or punishment (subdivision (a)(29))
- Beginning at age 14, get a credit report every year from three major reporting agencies and receive help resolving any inaccuracies (subdivision (a)(32))

RECORDS

Children and nonminor dependents have the right to review and receive copies, from county child welfare and probation at no cost to the foster youth, of the following records until they are 26 years old:

- Medical records from medical care for which they can consent (subdivision (a)(220(B))
- Child welfare records (subdivision (a)(36))

- Juvenile court records (subdivision (a)(36))
- Educational records (subdivision (a)(36))

COMMUNICATIONS

Children and nonminor dependents have the right to:

- Use a phone to make and receive private calls unless prohibited by court order (subdivision (a)(13))
- Use a computer and the internet (subdivision (a)(16))
- Privately use email, text messages, or other electronic communication unless prohibited by court order (subdivision (a)(13))
- Send and receive unopened mail unless prohibited by court order (subdivision (a)(13))

Children and nonminor dependents have the right to receive contact information for, and to communicate privately with, the following people:

- Their social worker/probation officer (subdivision (a)(11))
- Their lawyer (subdivision (a)(11))
- Service providers (subdivision (a)(11))
- Foster youth advocates and Court Appointed Special Advocates (CASAs) (subdivision (a)(11))
- Education rights holder (subdivision (a)(11))
- Designated representatives of their Tribe, if applicable (subdivision (a)(11) and (a)(41))
- The OFCO (subdivision (a)(41))
- Community Care Licensing Division (CCLD) (subdivision (a)(41))
- They cannot be threatened or punished for making complaints to the OFCO, a tribal authority or CCLD (subdivision (a)(41))

In order to assist county child welfare agencies and probation departments in identifying which rights were amended and how, the CDSS has included an attachment that specifies each right and how they were amended. If you have any questions or need additional guidance regarding the information in this letter, contact the Placement Services and Support unit at (916) 657-1858 or the OFCO at (877) 846-1602 or via email at: fosteryouthhelp@dss.ca.gov.

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division
Original Document Signed

Attachment A
Section 16001.9(a) of the welfare and institutions code

“(1) To live in a safe, healthy, and comfortable home where they are treated with respect. If the child is an Indian child, to live in a home that upholds the prevailing social and cultural standards of the child’s Indian community, including, but not limited to, family, social, and political ties.”

Amended to include the right of children covered under the Indian Child Welfare Act to live in a home that upholds the social and cultural standards of the child’s Indian community.

“(2) To be free from physical, sexual, emotional, or other abuse, corporal punishment, and exploitation.”

Amended to include protection from exploitation.

“(3) To receive adequate and healthy food, adequate clothing, grooming and hygiene products, and an age-appropriate allowance. Clothing and grooming and hygiene products shall respect the child’s culture, ethnicity, and gender identity and expression.”

Amended to expand the right to an age-appropriate allowance from “youth in group homes” to all foster youth. Amended to include the right for a child to have access to clothing and grooming products consistent with their culture, ethnicity, and gender identity expression.

“(4) To be placed in the least restrictive setting possible, regardless of age, physical health, mental health, sexual orientation, and gender identity and expression, juvenile court record, or status as a pregnant or parenting youth, unless a court orders otherwise.”

Previously numbered (24) and amended to include the right to be placed in the “least restrictive setting possible” and to include protections of age, physical health, mental health, juvenile court record, and status as a pregnant or parenting youth, while maintaining protections and preferences for placement according to sexual orientation and gender identity.

“(5) To be placed with a relative or nonrelative extended family member if an appropriate and willing individual is available.”

Added to reflect laws requiring preferential consideration of placement with relatives and nonrelative extended family members

“(6) To not be locked in any portion of their foster care placement, unless placed in a community treatment facility.”

Previously numbered (12) and amended to include simplified language.

“(7) To have a placement that utilizes trauma-informed and evidence-based de-escalation and intervention techniques, to have law enforcement intervention requested only when there is an imminent threat to the life or safety of a child or another person or as a last resort after other diversion and de-escalation techniques have been utilized, and to not have law enforcement intervention used as a threat or in retaliation against the child.”

Added to incorporate the trauma-informed and evidence-based de-escalation and intervention requirements added to the Health and Safety Code by the 2018 budget trailer bill [\(\(AB\) 1811 Chapter 35, Statutes of 2018\)](#) found in HSC Section 1531.6 and to reflect the Resource Family Approval Written Directives. Also incorporates provisions prohibiting use of law enforcement intervention as a threat or retaliation and only to be used when there is an imminent threat to the life or safety of a child or another person. Reflects the intent behind the reporting requirements contained in HSC Section 1538.7 regarding use of law enforcement intervention at children’s residential facilities

“(8) To not be detained in a juvenile detention facility based on their status as a dependent of the juvenile court or the child welfare services department’s inability to provide a foster care placement. If they are detained, to have all the rights afforded under the United States Constitution, the California Constitution, and all applicable state and federal laws.”

Added to incorporate the prohibition contained in WIC Section 628(a)(2) on detention of a child in a juvenile detention facility solely because the child welfare agency is unable to provide a placement to the child.

“(9) To have storage space for private use.”

Previously numbered (18), this subsection was otherwise not amended by AB 175.

“(10) To be free from unreasonable searches of personal belongings.”

Previously numbered (21), this subsection was otherwise not amended by AB 175.

“(11) To be provided the names and contact information for social workers, probation officers, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the child’s Indian tribe to participate in the juvenile court proceeding, and to communicate with these individuals privately.”

Previously numbered (6) and amended to include service providers, education rights holder, and representatives designated by the child’s Indian tribe to participate in the juvenile court proceeding.

“(12) To visit and contact siblings, family members, and relatives privately, unless prohibited by court order, and to ask the court for visitation with the child’s siblings.”

Previously numbered (7), this subsection was otherwise not amended by AB 175.

“(13) To make, send, and receive confidential telephone calls and other electronic communications, and to send and receive unopened mail, unless prohibited by court order.”

Previously numbered (9) and amended to include electronic communication.

“(14) To have social contacts with people outside of the foster care system, including, but not limited to, teachers, coaches, religious or spiritual community members, mentors, and friends. If the child is an Indian child, to have the right to have contact with tribal members and members of their Indian community consistent with the prevailing social and cultural conditions and way of life of the Indian child’s tribe.”

Previously numbered (15) and amended to include coaches and, if the child is an Indian child, tribal members and members of their Indian community.

“(15) To attend religious services, activities, and ceremonies of the child’s choice, including, but not limited to, engaging in traditional Native American religious practices.”

Previously numbered (10) and amended to include traditional Native American religious practices.

“(16) To participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the child’s age, maturity, developmental level, sexual orientation, and gender identity and expression.”

Previously numbered (13) and amended to include access to computer technology and the internet, and activities consistent with the child's sexual orientation and gender identity and expression.

“(17) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, or HIV status.”

Previously numbered (23), this subsection was otherwise not amended by AB 175.

“(18) To have caregivers, child welfare and probation personnel, and legal counsel who have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and expression, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender children in out-of-home care.”

Previously numbered (25) and amended to include instruction and cultural competency and sensitivity to the child's sexual orientation and gender identity and expression.

“(19) To be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court, child welfare, medical, or vital records, to be referred to by the child's preferred name and gender pronoun, and to maintain privacy regarding sexual orientation and gender identity and expression, unless the child permits the information to be disclosed, or disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order.”

Previously numbered (24) and amended to include the right to be referred to by their preferred name and pronoun and to have their privacy maintained in regard to their sexual orientation and gender identity and expression, consistent with disclosures permitted by the child or when disclosure is required by the law or court order.

“(20) To have child welfare and probation personnel and legal counsel who have received instruction on the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) and on cultural competency and sensitivity relating to, and best practices for, providing adequate care to Indian children in out-of-home care.”

Added to reflect changes to child welfare law made in 2018 by Assembly Bill 3176 ([\(AB\) 3176 Chapter 833, Statutes of 2018](#)), which incorporated the Bureau of Indian Affairs ICWA final rule of 2016.

“(21) To have recognition of the child’s political affiliation with an Indian tribe or Alaskan village, including a determination of the child’s membership or citizenship in an Indian tribe or Alaskan village; to receive assistance in becoming a member of an Indian tribe or Alaskan village in which the child is eligible for membership or citizenship; to receive all benefits and privileges that flow from membership or citizenship in an Indian tribe or Alaskan village; and to be free from discrimination based on the child’s political affiliation with an Indian tribe or Alaskan village.”

Added to reflect changes to child welfare law made in 2018 by Assembly Bill 3176 (Chapter 833, Statutes of 2018), which incorporated the Bureau of Indian Affairs ICWA final rule of 2016.

*“(22)(A) To access and receive medical, dental, vision, mental health, and substance use disorder services, and reproductive and sexual health care, with reasonable promptness that meets the needs of the child, to have diagnoses and services explained in an understandable manner, and to participate in decisions regarding health care treatment and services. This right includes covered gender affirming health care and gender affirming mental health care and is subject to existing laws governing consent to health care for minors and nonminors and does not limit, add, or otherwise affect applicable laws governing consent to health care.
(B) To view and receive a copy of their medical records to the extent they have the right to consent to the treatment provided in the medical record and at no cost to the child until they are 26 years of age.”*

Previously numbered (4) and amended to include substance use disorder services and reproductive and sexual health care, and for these and other services to be delivered in an understandable manner, for the child to have the right to participate in decisions regarding their care and services, and to receive gender affirming health and mental health care. This right is also amended to include the right of children in foster care to view and receive a free copy of their medical records when applicable.

“(23) Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation. The child has the right to consult with and be represented by counsel in opposing a request for the administration of psychotropic medication and to provide input to the court about the request to authorize medication. The child also has the right to report to the court the positive and

adverse effects of the medication and to request that the court reconsider, revoke, or modify the authorization at any time.”

Previously numbered (5) and amended to include the right to consult with and be represented by counsel to provide input to the court on, report to the court the positive and adverse effects of, and to oppose a request for the administration of psychotropic medication.

“(24)(A) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections.

(B) At any age, to consent to or decline services regarding contraception, pregnancy care, and perinatal care, including, but not limited to, abortion services and health care services for sexual assault without the knowledge or consent of any adult.

(C) At 12 years of age or older, to consent to or decline health care services to prevent, test for, or treat sexually transmitted diseases, including HIV, and mental health services, without the consent or knowledge of any adult.”

Previously numbered as (27) and amended to exclude the requirement that a child be twelve years of age or older to consent to or to decline health care services to prevent, test for, or treat sexually transmitted diseases. Also amended to include the right of a child to have access to contraception, pregnancy care, and perinatal care at any age.

“(25) At 12 years of age or older, to choose, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care, if payment for the service is authorized under applicable federal Medicaid law or other approved insurance, and to communicate with that health care provider regarding any treatment concerns or needs and to request a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.”

Added to reflect changes to federal and state health care law contained in 42 U.S.C. Section 1396a (to choose one’s own health care provider) and HSC Section 1385.15 (to request a second opinion). They also reflect that California operates under a Freedom of Choice waiver provided for in Section 1915(b) (1) of the Social Security Act (42 U.S.C. Section 1396n, subd. (b)(1)) which permits it to create networks of medical care services providers and limit choice to providers within those networks if Medicaid dollars are paying for those services

“(26) To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law.”

Added to reflect the right to confidentiality of medical and mental health records as described in 45 Code of Federal Regulations (CFR) Sections 164.502(a)(1), 164.506 and 164.508(a)(2), and the requirement in WIC Section 16501.1(g)(18)(A), that child welfare agencies and probation departments provide foster youth with a document that describes their rights.

“(27) To attend school, to remain in the child’s school of origin, to immediate enrollment upon a change of school, to partial credits for any coursework completed, and to priority enrollment in preschool, afterschool programs, a California State University, and each community college district, and to receive all other necessary educational supports and benefits, as described in the Education Code.”

Previously numbered as (13) and expanded to include the right to remain in the child’s school of origin, to immediate enrollment upon a change of school, to partial credits for any coursework completed, and to priority enrollment.

“(28) To have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for career, technical, and postsecondary educational programs, and information regarding financial aid for postsecondary education, and specialized programs for current and former foster children available at the University of California, the California State University, and the California Community Colleges.”

Previously numbered as (26) and amended to apply to all foster children rather than to children 16 years of age or older and to include the right to access specialized programs for current and former foster youth at the University of California, the California State University, and California Community Colleges.

“(29) To attend Independent Living Program classes and activities, if the child meets the age requirements, and to not be prevented by caregivers from attending as a consequence or punishment.”

Previously numbered as (16) and amended to include the right to not be prevented from attending Independent Living Program activities as a consequence or punishment.

“(30) To maintain a bank account and manage personal income, consistent with the child’s age and developmental level, unless prohibited by the case plan.”

Previously numbered as (11) and amended to exclude the requirement that a foster child's bank account be for emancipation purposes only.

“(31) To work and develop job skills at an age-appropriate level, consistent with state law.”

Previously numbered as (14) and otherwise not amended by AB 175.

“(32) For children 14 to 17 years of age, inclusive, to receive a consumer credit report provided to the child by the social worker or probation officer on an annual basis from each of the three major credit reporting agencies, and to receive assistance with interpreting and resolving any inaccuracies.”

Added to include the requirements in WIC Section 16501.1(g)(18)(A) that social workers provide youth with a document that describes their rights to review and receive assistance with their credit report on an annual basis.

“(33) To be represented by an attorney in juvenile court; to have an attorney appointed to advise the court of the child's wishes, to advocate for the child's protection, safety, and well-being, and to investigate and report to the court on legal interests beyond the scope of the juvenile proceeding; to speak to the attorney confidentially; and to request a hearing if the child feels their appointed counsel is not acting in their best interest or adequately representing their legal interests.”

Added to reflect the WIC Section 16501.1(g)(18)(A), which requires that social workers provide youth with a document that describes their rights in court, other court related rights as described in WIC Section 317, and the court ruling in *People v. Marsden* (1970) 2 Cal.3d 118.

“(34) To receive a notice of court hearings, to attend court hearings, to speak to the judge, to view and receive a copy of the court file, subject to existing federal and state confidentiality laws, and to object to or request the presence of interested persons during court hearings. If the child is an Indian child, to have a representative designated by the child's Indian tribe be in attendance during hearings.”

Previously numbered as (17) and amended to include the right to be provided notice of a hearing, to view and receive court files, subject to confidentiality laws, and to object to or request the presence of persons during court hearings, including tribal representatives if the child is an Indian child.

“(35) To the confidentiality of all juvenile court records consistent with existing law.”

Previously numbered as (22) and otherwise not amended by AB 175.

“(36) To view and receive a copy of their child welfare records, juvenile court records, and educational records at no cost to the child until the child is 26 years of age, subject to existing federal and state confidentiality laws.”

Added to reflect a foster child's right to their child welfare records and juvenile court records pursuant to WIC Section 827, and to reflect the right to educational records per the federal Family Education Rights and Privacy Act (20 U.S.C. 1232g)..

“(37) To be involved in the development of their own case plan, including placement decisions, and plan for permanency. This involvement includes, but is not limited to, the development of case plan elements related to placement and gender affirming health care, with consideration of the child's gender identity. If the child is an Indian child, the case plan shall include protecting the essential tribal relations and best interests of the Indian child by assisting the child in establishing, developing, and maintaining political, cultural, and social relationships with the child's Indian tribe and Indian community.”

Previously numbered as (19) and amended to include the right to be involved in placement decisions and the right of a child to have their tribal relations protected if the child is an Indian child.

“(38) To review the child's own case plan and plan for permanent placement if the child is 10 years of age or older, and to receive information about their out-of-home placement and case plan, including being told of changes to the plan.”

Previously numbered as (20) and amended to reduce the requirement that the child be at least 12 years of age to 10 years of age or older and to exclude the requirement that they currently be placed in a permanent placement.

*“(39) To request and participate in a child and family team meeting, as follows:
(A) Within 60 days of entering foster care, and every 6 months thereafter.*

(B) If placed in a short-term residential therapeutic program, or receiving intensive home-based services or intensive case coordination, or receiving therapeutic foster care services, to have a child and family team meeting at least every 90 days.

(C) To request additional child and family team meetings to address concerns, including, but not limited to, placement disruption, change in service needs, addressing barriers to sibling or family visits, and addressing difficulties in coordinating services.

(D) To have both informal and formal support people participate, consistent with state law.”

Added to reflect the requirements of Child and Family Team (CFT) meetings as a core element of CCR, clarify the timelines for CFTs, and include the right of the youth to both request and participate, pursuant to WIC Sections 16501(a)(4)(B) and 16501.1.

“(40) To be informed of these rights in an age and developmentally appropriate manner by the social worker or probation officer and to be provided a copy of the rights in this section at the time of placement, any placement change, and at least once every six months or at the time of a regularly scheduled contact with the social worker or probation officer.”

Added to reflect the requirement in WIC Section 16501(g)(4), that social workers and probation officers advise foster youth of their rights in an age and developmentally appropriate manner at least once every six months and at every placement change and that they provide foster youth with a copy of their rights as part of the explanation.

“(41) To be provided with contact information for the Community Care Licensing Division of the State Department of Social Services, the tribal authority approving a tribally approved home, and the State Foster Care Ombudsperson, at the time of each placement, and to contact any or all of these offices immediately upon request regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.”

Previously numbered as (8) and amended to also include tribal authorities, to receive this information at the time of each placement, and to speak to any or all of these offices immediately upon request regarding violations of rights.