

Assembly Bill No. 2108

Passed the Assembly August 31, 2024

Chief Clerk of the Assembly

Passed the Senate August 30, 2024

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2024, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 16501.35 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2108, Ramos. Foster care: missing children and nonminor dependents.

Existing law generally provides for the placement of foster youth in various placement settings and governs the provision of child welfare services, as specified. Existing law requires county child welfare agencies and probation departments to develop and implement specific protocols to expeditiously locate any child or nonminor dependent missing from foster care, including, but not limited to, the timeframe for reporting missing youth and the individuals or entities entitled to notice that a youth is missing. Existing law requires the social worker or probation officer to determine the primary factors that contributed to the child or nonminor dependent running away or otherwise being absent from care, among other things.

This bill, the Luke Madrigal Act, would, among other things, additionally require the social worker or probation officer, when they receive information that a child receiving child welfare services is missing from foster care, to immediately, but in no case later than 24 hours from the receipt of that information, notify specified entities or persons, including the local law enforcement agency and the child's or nonminor dependent's parents or guardians, except as specified.

The bill would define "missing from foster care" to mean the whereabouts of a child subject to an order of foster care placement are unknown to the county child welfare agency or probation department, or when the county child welfare agency or probation department has located a child subject to an order of foster care placement in a location not approved by the court that may pose a risk to the child, as specified. The bill would include a nonminor dependent in this definition if, based on the totality of the circumstances, the county child welfare agency or probation

department suspects that the nonminor dependent did not voluntarily leave foster care or is at risk of substantial harm.

By increasing the duties of county child welfare agencies and probation departments, this bill would create 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. This act shall be known, and may be cited, as the Luke Madrigal Act.

SEC. 2. The Legislature finds and declares both of the following:

(a) The release of a 2022 audit by the United States Department of Health and Human Services Office of Inspector General showed that there are several barriers and other deficiencies in California agencies' policies and procedures related to missing foster youth.

(b) It is the intent of the Legislature to create stronger protections for youth who are missing from foster care in order to expeditiously locate them when they are absent from foster care, improve outcomes for missing foster youth, and reduce the number of instances of missing foster youth by creating notification requirements, including notice to the court and other interested parties, when a youth is absent from foster care.

SEC. 3. Section 16501.35 of the Welfare and Institutions Code is amended to read:

16501.35. (a) County child welfare agencies and probation departments shall implement policies and procedures that require social workers and probation officers to do all of the following:

(1) Identify children receiving child welfare services, including dependents or wards in foster care, nonminor dependents, and youth receiving services pursuant to Section 677 of Title 42 of the United States Code, who are, or are at risk of becoming, victims of commercial sexual exploitation.

(2) Document individuals identified pursuant to paragraph (1) in the statewide child welfare information system and any other agency record as determined by the county.

(3) Determine appropriate services for the child or youth identified pursuant to paragraph (1).

(4) Receive relevant training in the identification, documentation, and determination of appropriate services for any child or youth identified in paragraph (1).

(b) County child welfare agencies and probation departments shall develop and implement specific protocols to expeditiously locate any child or nonminor dependent missing from foster care. At a minimum, these policies shall do all of the following:

(1) Describe the efforts used by county child welfare or probation staff to expeditiously locate any child or nonminor dependent missing from foster care, including, but not limited to, the timeframe for reporting missing youth, the individuals or entities entitled to notice that a youth is missing, any required initial and ongoing efforts to locate youth, and plans to return youth to placement.

(2) Require the social worker or probation officer to do all of the following:

(A) Determine the primary factors that contributed to the child or nonminor dependent running away or otherwise being absent from care.

(B) Respond to factors identified in subparagraph (A) in subsequent placements, to the extent possible.

(C) Determine the child's or nonminor dependent's experiences while absent from care.

(D) Determine whether the child or nonminor dependent is a possible victim of commercial sexual exploitation.

(E) Document the activities and information described in subparagraphs (A) to (D), inclusive, for federal reporting purposes, consistent with instructions from the department.

(F) Provide notice immediately, but in no case later than 24 hours from receipt of information that the child or nonminor dependent is missing from foster care, to all of the following parties:

(i) The child's or nonminor dependent's parents or Indian custodians, unless parental notification has been limited or terminated by the court.

(ii) The child's or nonminor dependent's legal guardians, unless guardian notification has been limited or terminated by the court.

(iii) The attorneys for the parents, legal guardians, or Indian custodians unless notification of the parents, guardians or Indian custodians has been limited or terminated by the court.

(iv) The child's or nonminor dependent's attorney appointed pursuant to subdivision (c) of Section 317, or Section 634.

(v) The child's or nonminor dependent's Court-Appointed Special Advocate, if one has been appointed.

(vi) The court of jurisdiction.

(vii) The child's or nonminor dependent's tribe or tribal representative, if the child or nonminor dependent is, or may be, an Indian child, as defined in Section 224.1.

(viii) Any known sibling of the child or nonminor dependent who is 10 years of age or older and adjudged to be a dependent child of the juvenile court, if such notice would not be contrary to the safety and well-being of that sibling. Notice to siblings shall be provided in a trauma-informed manner.

(ix) The local law enforcement agency, including, if applicable, any tribal law enforcement agency for the child's tribe in the case of an Indian child, as defined in Section 224.1.

(G) Notices issued pursuant to subparagraph (F) shall include contact information for an appropriate social worker or probation officer within the agency issuing the notice.

(c) (1) For purposes of this section, "missing from foster care" means when the whereabouts of a child subject to an order of foster care placement are unknown to the county child welfare agency or probation department, or when the county child welfare agency or probation department has located a child subject to an order of foster care placement in a location not approved by the court that may pose a risk to the child, taking into account the age, intelligence, mental functioning, and physical condition of the child.

(2) Paragraph (1) shall only apply to a nonminor dependent if, based on the totality of the circumstances, the county child welfare agency or probation department suspects that the nonminor dependent did not voluntarily leave foster care or is at risk of substantial harm.

(d) In consultation with stakeholders, including, but not limited to, the County Welfare Directors Association of California, the

Chief Probation Officers of California, former foster youth, and child advocacy organizations, the department shall, no later than January 1, 2020, develop model policies, procedures, and protocols to assist the counties to comply with this section. In addition, the department shall consult with the State Department of Education, the State Department of Health Care Services, state and local law enforcement, and agencies with experience serving children and youth at risk of commercial sexual exploitation in the development of the model policies and procedures described in subdivision (a).

(e) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this section through all-county letters or similar instructions until regulations are adopted.

SEC. 4. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

Approved _____, 2024

Governor