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## SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 766 **Hearing Date:** July 12, 2017  
**Author:** Friedman  
**Version:** July 3, 2017  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** Foster youth

### SUMMARY

This bill prohibits the California Community Colleges and California State University (CSU) from considering supervised independent living placement payments when determining a *minor* foster youth's eligibility for a waiver of tuition or fees, or any other financial aid, extends eligibility for extended foster youth payments to *minor* dependents whose placement is a college dormitory in which the youth is living independently, and authorizes extended foster youth payments to be made directly to a *minor* dependent whose placement is a college dormitory in which the youth is living independently.

### BACKGROUND

*Cost of Attendance minus Expected Family Contribution equals financial need*

A student's need for financial aid is determined by the federal Department of Education's Office of Federal Student Aid, based on the student's Free Application for Federal Student Aid (FAFSA). Information from a student's FAFSA is used in a formula that calculates the student's Expected Family Contribution (EFC). If a student's EFC is below a certain amount, the student is eligible for a Federal Pell Grant, assuming all other eligibility requirements are met. Postsecondary education institutions may award additional non-federal aid. A student's EFC is used in an equation to determine the student's financial need.

The college or university campus financial aid administrator calculates a student's cost of attendance and subtracts the amount of EFC. If that calculation results in an amount greater than zero, the student is considered to have financial need.

Existing state law:

- 1) Requires the governing board of each community college district to charge each student a \$46 per unit, per semester, fee. (Education Code § 76300)
- 2) Authorizes the CSU Trustees by rule to require all persons to pay fees, rents, deposits, and charges for services, facilities or materials provided by the trustees to such persons. (EC § 89700)
- 3) Establishes the jurisdiction of the dependency court over children who have suffered or are at substantial risk of suffering serious physical harm inflicted non-accidentally upon the child by the child's parent or guardian or as a result of the

failure or inability of his or her parent or guardian to provide adequate supervision. (*Welfare and Institutions Code § 300, et seq.*)

- 4) Defines a *non-minor* dependent as a foster child who has attained 18 years of age while under an order of foster care placement and is not more than 21 years of age, and who has a transitional independent living case plan, as specified. (*WIC § 11400 (v)*)
- 5) Establishes Aid to Families with Dependent Children-Foster Care (AFDC-FC) as aid provided on behalf of needy children in foster care, and specifies eligibility requirements. (*WIC § 11400 and § 11402*)
- 6) Defines a supervised independent living placement (SILP) as an independent supervised setting, as specified in a non-minor dependent's transitional independent living case plan, in which the youth is living independently. (*WIC § 11400 (w)*)
- 7) Permits a non-minor dependent in a SILP to receive all of the AFDC-FC payment directly if the non-minor is living independently and both the youth and the agency responsible for the foster care placement have signed a mutual agreement that documents the continued need for supervised out-of-home placement. (*WIC § 11403(d)*)

Existing federal law, the Higher Education Act, includes a list of "excludable income" that is not to be included in the calculation of a student's Expected Family Contribution, and therefore is not to be reported on the student's Free Application for Federal Student Aid (FAFSA). Existing federal law provides that payments and services provided under Part E of Title IV of the Social Security Act (payments made directly to the foster youth) are considered excludable income. (United States Code, Title 20 § 480(e))

## ANALYSIS

This bill prohibits the California Community Colleges (CCC) and California State University (CSU) from considering SILP payments when determining a *minor* foster youth's eligibility for a waiver of tuition or fees, or any other financial aid, extends eligibility for extended foster youth payments to *minor* dependents whose placement is a college dormitory in which the youth is living independently, and authorizes extended foster youth payments to be made directly to a *minor* dependent whose placement is a college dormitory in which the youth is living independently. Specifically, this bill:

### *Consideration of extended foster youth payments as income*

- 1) Prohibits the CCC Board of Governors from considering foster care payments made directly to a *minor* dependent (as described in # 4) when determining eligibility for a waiver of fees, or any other financial aid, for a minor who is living in a dormitory or other designated housing of a postsecondary educational institution.
- 2) Prohibits the CSU Trustees from considering foster care payments made directly to a *minor* dependent (as described in # 4) when determining eligibility for a

waiver of tuition or other fees, or any other financial aid, for a minor who is living in a dormitory or other designated housing of a postsecondary educational institution.

*Placement of a minor dependent in a college dormitory*

- 3) Extends eligibility for a foster youth to receive Aid for Families with Dependent Children – Foster Care (AFDC-FC) payments to include minor dependents whose placement is a dormitory or other designated housing of a postsecondary educational institution in which the minor is living independently.

*Eligibility for direct extended foster care payments*

- 4) Authorizes a minor dependent at least 16 years of age who is otherwise eligible for AFDC-FC benefits to be eligible to receive his or her AFDC-FC payment directly, if all of the following conditions apply:
  - a) The minor is enrolled in a postsecondary educational institution.
  - b) The minor is living independently in a dormitory or other designated housing of the postsecondary educational institution.
  - c) The placement is made pursuant to a supervised placement agreement and transitional independent living plan
- 5) Prohibits a minor receiving court-ordered reunification services from being eligible to live independently in postsecondary educational institutional housing pursuant to this section if the court finds that the placement would impede reunification efforts.
- 6) Prohibits federal financial aid from being available for placements described in this bill, unless otherwise authorized by federal law.
- 7) States legislative intent that payments received by a minor not be counted as income by any public or private postsecondary educational institution in the state for the purposes of the minor's financial aid determination.
- 8) Provides that this bill shall apply to local agencies only to the extent that the state provides annual funding for the cost increase to the extent that this bill has an overall effect of increasing certain costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation. This bill provides that any new program or higher level of service provided by a local agency above the level for which funding has been provided shall not require a subvention of funds by the state.

**STAFF COMMENTS**

- 1) ***Need for the bill.*** According to the author, "California-specific research shows that while most current or former foster youth in college receive some form of financial aid, many only receive support for course enrollment fees and not living

expenses. AB 12 (2010) extended the age that youth can remain in foster care from 18 to 21, and created a new placement option, a supervised independent living placement (SILP) which enables youth to remain in care while living autonomously and gaining self-sufficiency. There is financial support provided for SILPs and often times the benefit is paid directly to the youth. College dorms and other designated university housing are automatically approved as SILPs. While AB 12 extended aid for transition-age foster youth attending college, there is a small population of minors in the foster care system who are also college students. Under current law, there is a gap in placement options for these youth because SILPs are only available for non-minors.”

- 2) ***Extends to minor dependents supports currently afforded to non-minor dependent.*** This bill addresses a gap in supports for foster youth who have not reached 18 years of age, but who are living in a college dormitory.

*Consideration of extended foster youth payments as income*

The United States Department of Education’s Office of Federal Student Aid issued a Dear Colleague letter on July 3, 2013, explaining that extended foster care payments that are made directly to the student are to be excluded from income for purposes of the calculation of a student’s Expected Family Contribution and therefore not reported on the Free Application for Federal Student Aid (FAFSA). The letter further explains that if extended foster care payments are not made directly to the student, the payments must be reported on the FAFSA as untaxed income. <https://ifap.ed.gov/dpcletters/GEN1318.html>

*Placement of a minor dependent in a college dormitory*

Existing law allows youth to remain in foster care to age 21 and provides a Supervised Independent Living Placement (SILP) as an option for non-minor dependents. A SILP can be an apartment, condominium, room-and-board or college dormitory; while a SILP is not a licensed placement, it must be approved by the county social worker or probation officer. Under existing law, there is no placement option for a *minor* dependent in a college dormitory because SILPs are only available for *non-minor* dependents. This bill extends the college dormitory SILP option payments to *minor* dependents.

*Eligibility for direct extended foster care payments*

Existing law allows a non-minor dependent who is placed in a SILP to directly receive all, or a portion of, the \$899 foster care payment. According to the Senate Human Services Committee’s analysis, the Department of Social Services reports that there were 8,788 non-minor dependents in California as of January 1, 2017, and 3,414 of these youth were living in a SILP. This bill allows minor dependents to directly receive extended foster care payments.

- 3) ***How financial need is determined.*** The college or university campus financial aid administrator calculates a student’s cost of attendance and subtracts the amount of Expected Family Contribution. If that calculation results in an amount greater than zero, the student is considered to have financial need. A student’s

financial aid package is often determined at the campus level. This bill prohibits the California Community Colleges (CCC) Board of Governors and California State University (CSU) Trustees from considering supervised independent living placement (SILP) payments for a *minor* dependent when determining eligibility for financial aid. **Staff recommends amendments** to strike reference to the BOG and Trustees, and instead generally prohibit foster care payments from being considered when determining eligibility for financial aid.

- 4) ***Heard and amended by the Senate Human Services Committee.*** This bill was heard by the Senate Human Services Committee on June 13, where it passed on a 4-0 vote. This bill was amended by the Senate Human Services Committee to prohibit the CCC and CSU from considering foster care payments made directly to a *minor* dependent when determining eligibility for a waiver of tuition or fees, or any other financial aid. Those amendments were made at the request of the County Welfare Directors Association to address concerns that a foster youth who receives a SILP payment may see other financial aid reduced as a result. The bill now ensures that SILP payments will not be considered when determining financial need.
- 5) ***Fiscal impact.*** According to the Assembly Appropriations Committee's analysis of the prior version of this bill, this bill would result in minor costs to the Department of Social Services (DSS) to the extent that foster youth now forfeiting benefits would retain them. DSS anticipates the number of youth impacted by this bill to be small, and most for only a few months. Assuming 10 cases per year, total costs would be approximately \$7,900 (\$7,835 General Fund). Annual ongoing costs would be approximately \$15,560 (\$15,425 General Fund).

A fiscal analysis has not been completed for the portion of this bill that prohibits foster care payments made to minor dependents from being considered when determining student financial aid.

- 6) ***Related legislation.*** AB 604 (Gipson) expands the definition of a non-minor dependent to include a child who turns 18 while in temporary placement with a county child welfare department, and permits a court to place a child who is not determined to be a dependent into dependency or transition status for the purpose of eligibility for extended foster care. It also grants a non-minor who was adopted but is no longer receiving support from his or her parents the right to petition a court for entry into extended foster care, even if the adoptive parents are still receiving aid for the non-minor, and makes other changes. AB 604 is scheduled to be heard by the Senate Judiciary Committee on July 11.

## SUPPORT

Children's Law Center (sponsors)  
 All Saints church Foster Care Project  
 California Alliance of Child and Family Services  
 California Probation, Parole and Correctional Association  
 California State University  
 Chief Probation Officers of California  
 Hillslides

Junior League of San Diego  
National Association of Social Workers, California Chapter

**OPPOSITION**

None received

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