



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

September 17, 2018

ALL COUNTY LETTER NO. 18-113

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: EXTENDED FOSTER CARE (EFC) FOR OTHERWISE ELIGIBLE  
MINORS AND NONMINORS WHOSE JUVENILE COURT  
ADJUDICATIONS ARE VACATED UNDER PENAL CODE (PC)  
SECTION 236.14 AS VICTIMS OF HUMAN TRAFFICKING

REFERENCE: [ASSEMBLY BILL \(AB\) 604](#) (CHAPTER 707, STATUTES OF 2017);  
[AB 212](#) (CHAPTER 459, STATUTES OF 2012); [SENATE BILL \(SB\)  
1322](#) (CHAPTER 654, STATUTES OF 2016); [SB 823](#) (CHAPTER 650,  
STATUTES OF 2016); [SB 794](#) (CHAPTER 425, STATUTES OF 2015);  
[SB 855](#) (CHAPTER 29, STATUTES OF 2014); [PENAL CODE \(PC\)  
SECTIONS 236.1; 236.14, 647; 653.22; AND 11165.1; WELFARE AND  
INSTITUTIONS CODE \(WIC\) SECTIONS 241.1, 300, 303, 388, 450,  
451, 602, 607.2, AND 16501.35; ALL COUNTY LETTERS 11-61, 11-  
69; 11-85; AND 16-85; ALL COUNTY INFORMATION NOTICE I-79-17](#)

## **PURPOSE**

The purpose of this ACL is to inform counties that [AB 604](#) went into effect on January 1, 2018. The [AB 604](#) amended [Welfare and Institutions Code \(W&I\) sections 303, 388, 450, and 451](#) to ensure that a ward or former ward who is eligible for foster care and extended foster care (EFC) under transition jurisdiction remains eligible if the court vacates the youth's underlying adjudication because they were a victim of human trafficking.

## **BACKGROUND**

### **PRECEDING LEGISLATION**

Legislative changes during recent years to combat human trafficking in California have increased awareness that children who are trafficked should be supported as victims and survivors, rather than treated as criminals. In June 2014, [SB 855](#) was passed and clarified that under existing law, commercially sexually exploited children whose parents or guardians failed or were unable to protect them fall within the description of [W&IC section 300 \(b\)](#) and may be adjudged as dependents of the juvenile court. In 2015, [SB 794](#) implemented changes in federal law to prevent child sex trafficking, including adding [Penal Code \(PC\) section 11165.1 subdivision \(d\)](#), which specifies that children who are trafficked for sex, or who perform sexual acts in exchange for money, food, shelter, or other payment, are victims of commercial sexual exploitation, a form of child abuse and exploitation.

However, prior to January 1, 2017, child victims of commercial sexual exploitation could still be arrested, prosecuted, and adjudicated as wards of the juvenile delinquency court for prostitution-related acts under the Penal Code. The [SB 1322](#), passed in 2016, addressed this issue by amending [PC sections 647, subdivision \(b\)](#) and [653.22, subdivision \(a\)](#) to prohibit the arrest or prosecution of a child under the age of 18 for soliciting or engaging in an act of prostitution for money or other consideration, or loitering with the intent to commit an act of prostitution. The [SB 1322](#) recognized that these minors could not legally consent to sexual intercourse and were the victims of child abuse and sexual exploitation. See [ACIN I-79-17](#) for more information regarding [SB 1322](#).

Additionally, [SB 823](#), passed in 2016, added section [236.14](#) to the PC to allow a person to petition the court for relief from an arrest, conviction, or adjudication for any nonviolent offense that occurred as the direct result of being a victim of human trafficking. The [PC section 236.1, subdivisions \(a\) through \(c\)](#), define human trafficking to include forced labor or services and sex trafficking, including the exploitation of a minor to engage in a commercial sex act.

Under [PC section 236.14, subdivision \(j\)](#), a person may petition the court to vacate their [W&IC section 602](#) adjudication, and related juvenile arrests, for nonviolent offenses that occurred as the direct result of being a victim of human trafficking. This includes youth who were arrested and/or adjudicated wards by the juvenile delinquency court based on [PC sections 647, subdivision \(b\)](#) or [653.22, subdivision \(a\)](#) prior to January 1, 2017. Additionally, youth who were arrested or adjudicated for any other nonviolent offense may seek to vacate their adjudication if the offense occurred as the direct result of being a victim of human trafficking. If a youth obtains a court order vacating their arrest and/or

adjudication, this means that the arrest and/or adjudication are deemed not to have occurred and that all records in the case are sealed and destroyed ([PC section 236.14, subdivision \(t\)\(2\)](#)).

## **PASSAGE OF AB 604**

The [AB 604](#) was passed in 2017 to ensure that a youth, who was the victim of human trafficking and otherwise eligible to remain under the juvenile court's transition jurisdiction, would not lose their eligibility for foster care, EFC, and related services, if their adjudication was vacated under [PC section 236.14](#). The [AB 604](#) amended [W&IC sections 303, 388, 450](#) and [451](#) to specifically maintain the transition jurisdiction of the juvenile court over an otherwise eligible youth whose adjudication in the juvenile delinquency court is vacated for this reason.

## **TRANSITION JURISDICTION**

Transition jurisdiction was created by [AB 212](#) in [W&IC Section 450](#) to allow older probation wards who meet specified criteria to remain in foster care and participate in EFC. Transition jurisdiction supports older foster youth, who no longer need to be under the conditions of their probation but cannot return home, by allowing them to remain in foster care and access the support of extended foster care. It is distinct from "dual status" under [W&IC section 241.1](#), which allows a child to simultaneously remain a dependent and ward in counties that have opted to establish a dual status system.

To be eligible for transition jurisdiction, the youth must be either a ward who is older than 17 years and five months and under the age of 18 and in foster care placement, or a nonminor ward under the age of 21 in foster care placement who was a ward subject to an order for foster care placement on the day they reached 18 years of age. The youth must also meet the other criteria set forth in [W&IC section 450](#) and described in [ACL 11-85](#).

When youth are under transition jurisdiction as a minor, they are referred to as transition dependents, while youth ages 18-21 under transition jurisdiction are considered Nonminor Dependents (NMDs). The [W&IC section 451 subdivision \(b\)](#) specifies that youth under the court's transition jurisdiction are not subject to any terms or conditions of probation, and the youth's case shall be managed as a dependent child or NMD of the court. A youth under transition jurisdiction may be supervised by either the child welfare agency or probation department, as determined by a county's agreement between their child welfare agency and probation department pursuant to [W&IC section 241.1](#). For more information regarding transition jurisdiction, see [ACL 11-85](#).

### **EFC ELIGIBILITY WHEN JUVENILE COURT ADJUDICATION IS VACATED**

Under the changes made by [AB 604](#), an otherwise eligible minor or nonminor victim of human trafficking will remain under transition jurisdiction and continue to be eligible for foster care, EFC, and related services, even if their underlying juvenile delinquency court adjudication is vacated under [PC section 236.14](#).

Typically, in order to meet the criteria for [W&IC section 450](#), youth must have met their rehabilitative goals as set forth in their case plan. However, youth who have successfully met the requirements of [PC section 236.14](#) to vacate their adjudication are not required to have met their rehabilitative goals to remain eligible for transition jurisdiction, foster care, or EFC ([W&IC section 450, subdivision \(a\)\(3\)](#)). These youth must meet all other criteria for transition jurisdiction in [W&IC section 450](#). In addition, an NMD must also meet all the requirements of EFC, including one of the five participation criteria as described in [ACL 11-69](#).

NMDs who have their underlying adjudications vacated under [PC section 236.14](#) and choose to exit foster care may re-enter before age 21. Pursuant to [W&IC section 388, subdivision \(e\)\(1\)\(B\)](#), a youth who has been granted relief under [PC section 236.14](#) and exits foster care after turning 18 may petition the court to assume or resume transition jurisdiction any time prior to the age of 21. A youth who has entered or re-entered EFC under the court's transition jurisdiction shall meet all the requirements of EFC and receive the same supervision and access to placements, programs and services as any other NMD.

Minors 17 years and five months or younger, or who do not meet the other criteria set forth in [W&IC 450](#), are not eligible for transition jurisdiction. Their cases must be evaluated to determine if it is safe for them to return home without court supervision. If not, a dependency petition under [W&IC section 300](#) should be filed on their behalf to provide for their safety and wellbeing (see [ACIN I-79-17](#) for more information on this option). Alternatively, for a youth under dependency jurisdiction at the time they became a ward, the court may resume their dependency jurisdiction based upon the prior petition ([W&IC section 607.2 \(a\)\(3\)](#)).

To further clarify the populations affected by this legislation and their eligibility for foster care and/or EFC, a chart was created and is attached to this ACL.

As required by [W&IC section 16501.35](#) and [ACL 16-85](#), the social worker/probation officer shall appropriately document and determine appropriate services for any youth identified as a victim of sex trafficking.

**MODIFICATION OF COUNTY 241.1 PROTOCOLS**

The [W&IC section 451, subdivision \(c\)](#) requires each county to adapt their county protocol under [W&IC section 241.1](#) to specify whether the child welfare services agency or the probation department will supervise youth under transition jurisdiction, including youth who have obtained a court order vacating their underlying adjudication as a victim of human trafficking.

For questions regarding this letter, please contact the Transition Age Youth Policy Unit at (916) 651-7465 or [TAYPolicy@dss.ca.gov](mailto:TAYPolicy@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division

Attachment

<b>Youth's delinquency adjudication is vacated under Penal Code Section 236.14 in the following circumstances</b>	<b>Eligibility for foster care and/or Extended Foster Care (EFC)</b>
Youth is 18 or older and in foster care	Youth is eligible for transition jurisdiction as a NMD and to remain in EFC if W&IC 450 criteria are met <a href="#">(W&amp;IC sections 450 and 11400 (v))</a>
Youth is 18 or older and not in foster care but had a foster care placement order in effect on their 18 <sup>th</sup> birthday	Youth is eligible to re-enter foster care as a NMD under the assumption or resumption of transition jurisdiction if W&IC 450 criteria are met <a href="#">(W&amp;IC sections 388 and 450)</a>
Youth is older than 17 years, five months but under age 18 and is in foster care	Youth is eligible for transition jurisdiction as a transition dependent and to remain in foster care if W&IC 450 criteria are met. If still under an order for foster care placement on their 18 <sup>th</sup> birthday and meets all other eligibility requirements, youth is eligible for EFC <a href="#">(W&amp;IC sections 450 and 11400 (v))</a>
Youth is 17 years, five months or younger and is in foster care and was not under dependency jurisdiction when they were adjudicated a ward	Youth's case should be evaluated to determine if it is safe for them to return home. If it is not safe for them to return home or otherwise exit to permanency, an application under WIC 329 should be made to the child welfare services agency to file a 300 petition to make the youth a dependent of the court and maintain them in foster care <a href="#">(W&amp;IC sections 300, 325, 329, and 607.2(b)(2))</a>
Youth is 17 years, five months or younger and is in foster care and was under dependency jurisdiction when they were adjudicated a ward in a non-dual status county	Youth's case should be evaluated to determine if it is safe for them to return home. If it is not safe for them to return home or otherwise exit to permanency, dependency jurisdiction should be resumed to maintain them in foster care <a href="#">(W&amp;IC sections 300 and 607.2)</a>
Youth is 17 years, five months or younger and is in foster care and was under dependency jurisdiction when they were adjudicated a ward in a dual status county	Youth's case should be evaluated to determine if it is safe for them to return home. If it is not safe for them to return home or otherwise exit to permanency, the youth's dependency should be continued or resumed with the child welfare agency supervising the youth's case and foster care placement <a href="#">(W&amp;IC sections 241.1 and 300)</a>