



# Speaker-Designate Robert Rivas, 29<sup>th</sup> Assembly District

## AB 876 – Foster Care Court Records

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### SUMMARY

Assembly Bill 876 allows attorneys representing foster youth to access critical information if their client passes away while in foster care. This important legislation ensures that courts are able to keep a foster youth's case open so their attorney can gather information related to the circumstances of their death, ensuring all relevant facts come to light, and protecting other foster youth from potentially harmful placements.

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### BACKGROUND

In California today, there are an estimated 60,000 youth in the foster care system. The majority of foster youth are ages 0-18, along with some 18-21-year-olds who choose to participate in the state's extended foster care program, known as non-minor dependents (NMD). Children in foster care are some of the most vulnerable members of our community. According to a recent study by the Children's Hospital of Philadelphia, children in foster care are 42% more likely to pass away than children in the general population. Abuse and neglect are suspected causes in many of these cases.

Juvenile Dependency cases begin when a child welfare agency files a petition alleging actual or immediate danger to a child. If the child is unsafe in their original home, the child can be removed from the parent's custody and placed in protective custody. The child will then remain under the jurisdiction of the court until they reunify with their parent or guardian, or achieve permanency through legal guardianship or adoption, or until they age out of the foster care system.

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### PROBLEM

Unfortunately, the state sometimes unknowingly places a foster youth in a home that ends up being unsafe or abusive for that youth. Determining the cause of death of a child or NMD is vital to ensure that there is appropriate follow-up if abuse, neglect, or foul play is suspected. Additionally, this information will provide the youth's attorney with the tools necessary to protect the youth's privacy rights – which is an ongoing legal obligation; assess whether any future referrals or legal action is necessary, and protect the interests of the deceased child's siblings.

Existing law is ambiguous regarding the Juvenile Court's authority to maintain dependency jurisdiction after a foster youth passes away. As a result, the court may close

a deceased child's case before the child's attorney and other parties, such as their court-appointed special advocate, have received information regarding the circumstances of the child's death. This information could include medical records, police records, and autopsy reports. Without these records, all the facts regarding the circumstances of a death might not become known, possibly endangering other foster youth.

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### SOLUTION

AB 876 makes an important clarification to the law to allow Juvenile Courts to retain jurisdiction when a foster youth under the jurisdiction of the court passes away. Additionally, this bill requires the court to keep these cases open at the request of the child's attorney or another party for the purposes of collecting relevant documents and information.

In doing so, this legislation improves transparency and access to information that is critical to honoring children and NMDs who pass away in the foster care system. Additionally, by retrieving this information, attorneys can better protect foster youth interests and ensure a thorough review of a deceased youth's case so that grieving families are not left searching for answers.

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### SUPPORT

- Children's Law Center of California (Sponsor)
- Dependency Legal Services (Sponsor)

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### FOR MORE INFORMATION

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