



# 'The Reuniting Immigrant Families Act': A Case Study on California's Senate Bill 1064

Yali Lincroft  
Consultant, First Focus Campaign for Children

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## Introduction

On September 30, 2012, California Governor Brown signed "The Reuniting Immigrant Families Act" (SB1064). The legislation became the first in the country to address family separation issues as a consequence of the current immigration enforcement system. The California law prioritizes keeping children with their families and out of the public child welfare system whenever possible and helps separated families receive appropriate care and due process.

This case study describes how the bill was developed borrowing the lessons learned from similar federal efforts and how the diverse coalition of children, immigration and social justice organizations partnered to develop and pass the law. The study concludes by highlighting the efforts of other states to replicate this California bill.

## Addressing a Problem

According to the U.S. Department of Homeland Security, nearly 205,000 parents of U.S. citizen children were deported in the 26 months between July 1, 2010, and September 31, 2012.<sup>1</sup> As immigration enforcement increased in the United States, reports emerged documenting the increasing number of children entering the foster care system as a result of their parents' detention or deportation.<sup>2</sup> In the fall of 2011, this growing problem reached mainstream media attention with the publication of the Applied Research Center report titled, "Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System."<sup>3</sup> The report estimated that more than 5,100 children were currently in the foster care system as a result of their parents' detention or deportation. The story received widespread attention from national media outlets including Nightline, CNN and Associated Press articles, the Rachel Maddow show, and Fox News stations. The "Shattered Families" report even prompted a comment by President Obama in a November

2011 press conference where he publicly acknowledged that his administration needed to address the problem of immigration enforcement separating families.<sup>4</sup>

After reading a “Shattered Families” story in the Los Angeles Times, state legislator Senator Kevin de León Democratic representative for California’s 22nd District, which includes East Los Angeles and Monterey Park, responded by contacting the author of the “Shattered Families” report for policy recommendation. The senator was then referred to the First Focus Campaign for Children. Senator de León was an ideal candidate to sponsor the bill. He was the chair of the Democratic Caucus, and the first Latino Chair of Assembly Appropriations Committee.

## About the Bill

California epitomizes the growing diversity of the United States. It has the most foreign-born residents in the nation (11 percent of the total population in 2000), and far more than any other state.<sup>5</sup> Children residing with at least one immigrant parent account for about 59.6 percent of the state’s children under age 18 in 2011.<sup>6</sup>

The goal of SB1064 is to develop uniform, statewide policy and practice that would reduce family reunification barriers for immigrant families involved with the child welfare system. All four components of the bill are based on existing policies and practices.

1. The bill provides an extension of the family reunification period so that child welfare agencies can conduct a more diligent search for detained or deported parents or find a relative placement.

Rationale: This section was built on an existing 2008 California law, AB2070 (Bass), which allowed the juvenile court to extend reunification services for an incarcerated parent.

2. The bill affirms that immigration status per se is not a disqualifying factor in evaluating placement of a child with a relative, including their own parent.

Rationale: This policy has been implemented for numerous years in Illinois, New York City, and Los Angeles.<sup>7</sup>

3. The bill requires that the child welfare agencies screen immigrant children who are undocumented for potential immigration relief options.

Rationale: This is common practice in child welfare jurisdictions with experience working with immigrants such as Los Angeles, Fresno, and San Diego.<sup>8</sup> And, in 2010, a local law requiring screening for immigration relief options for youth in foster care was passed in New York City.<sup>9</sup>

4. The bill requires the state child welfare agency to provide guidance to the counties to establish memoranda of understanding (MOUs) with foreign consulates.

Rationale: This is based on Article 37 of the Vienna Convention on Consular Relations which clearly states that consular officers have the right to assist their nationals in cases of death, guardianship or

trusteeships and that consular post shall be informed without delay. And, over 11 states and counties have already developed MOUs or similar documents with foreign consulates.<sup>10</sup>

An important component of SB1064 is addressing the bias against placing children with undocumented parents or relatives. Though immigrant relatives may be willing to take custody of a child when their parent is detained or deported, many social workers, judges, and attorneys incorrectly assume that child welfare state or federal laws prohibit children from being placed with appropriate, undocumented relatives. SB1064 requires social workers to consider an appropriate relative for placement, including undocumented immigrants, and allows the county to use the relative's consular identification card or passport instead of his or her social security number or driver's license for the criminal background check and LiveScan needed for placement. And California law contains strong confidentiality requirements regarding children and information contained in their case files to address concerns that undocumented relatives who become foster care placements would be at risk of deportation.<sup>11</sup>

## Lessons Borrowed from Federal Efforts

The California law is based in part on the repeated failure of comprehensive immigration reform to gain political traction in Congress. Until now, the lack of federal leadership on immigration reform has led many states to respond through the passage of their own immigration laws. These immigration related state bills run the gamut, from pro-immigrant state policies allowing in-state rates for college tuition of undocumented immigrants, such as the passage of the Colorado in-state tuition bill in 2013, to punitive anti-immigrant statutes against employers who hired undocumented workers knowingly such as Arizona's SB1070.

The California bill is based, in part, on the lessons learned from other recent federal efforts. The Humane Enforcement and Legal Protections (HELP) for Separated Children Act (S.1399/H.R. 2607), re-introduced in the 112th Congress by Senator Al Franken (D-MN) and former Representative Lynn Woolsey (D-CA), directs U.S. Immigration and Customs Enforcement (ICE) to implement policies to ensure parents have access to phone calls at the time of apprehension to make child care arrangements and are able to make decisions about their child's care while in detention and at the time of removal. The HELP Separated Children Act was passed as a bipartisan amendment by the Senate judiciary committee during the immigration reform markup process. The Help Separated Families Act (H.R. 6128), first introduced by Representative Lucille Roybal-Allard (D-CA) in the 112th Congress, has similar provisions as SB1064 to ensure that child welfare agencies have policies in place to promote family reunification in cases when a child in the system has a parent who has been detained or deported. Representative Roybal-Allard is expected to re-introduce both the HELP Separated Children Act and the Help Separated Families Act in the House of Representatives in 2013.

The Foster Children Opportunity Act (HR 3333) was introduced by former Representative Pete Stark (D-CA) in 2011. HR 3333 requires all children in the public foster care system be screened and identified for eligibility for immigration relief options through technical assistance and resources to court and child welfare staff. The Act also provides recommendations to the U.S. Citizenship and Immigration Services Unit of the U.S. Department of Homeland Security to strengthen its immigration relief programs through standardize practices, specialized training of their officers, establishment of a dedicated unit, and issuance of policy guidance. The bill also lifts the five-year ban on access to federal benefits and provides federal Title IV-E reimbursement for youth after they receive the Special Immigrant Juvenile Status relief. The bill was re-introduced by Representative Beto O'Rourke (D-TX) in 2013 as H.R. 2036 with over 175 organizations

supporting this effort. First Focus Campaign for Children was a lead agency in the development of these bills. Components of these bills are likely to move into the negotiations regarding comprehensive immigration reform.

On April 17, 2013, the long-awaited federal comprehensive immigration legislation finally arrived with the bipartisan Senate “Gang of 8” introduction of the “Border Security, Economic Opportunity, and Immigration Modernization Act of 2013.”(S 744) The momentum given to immigration reform is credited to the crushing defeat of the Republican Party in the last presidential election, widely attributed to their lack of minority support, particularly with Latino voters. Hidden in this massive bill are several important modifications impacting state child welfare plans to promote the reunification of detained or removed parents with their children in the child welfare system. Specifically, the bill provides states with the authority to consider a parent’s detention or removal as a compelling reason to delay filing to termination of parental rights (TPR) and require state child welfare agencies to meet certain conditions before filing for TPR in such cases. The bill also includes provisions to ensure that state child welfare agencies place children with relatives whenever appropriate, regardless of their immigration status, and that parents are provide assistances in making arrangements for their child prior to a parent’s removal. These modifications were borrowed from the federal previous bills as well as the California legislation.

## A Diverse Coalition

Key partners joining First Focus Campaign for Children in the development and passage of SB1064 included child advocacy, immigration, and social justice organizations. Some examples of the work of the partners include:

- An Equal Justice Fellow, Eliana Kaimowitz, housed at the California Rural Legal Assistance Foundation helped draft and review the bill, testified on behalf of the bill, wrote blogs, and helped rally legal organizations to join the effort.
- CHIRLA (The Coalition of Human Rights of Los Angeles) made SB1064 a priority for their organization and their advocate, Joseph Villela, joined First Focus Campaign for Children in organizing legislative education meetings in Sacramento.
- In addition to CHIRLA, organizations who had lobbyists located in the state capitol testified for the bill at all the hearings and met with legislative staff: the National Association of Social Worker- CA Chapter, the Children’s Defense Fund, MALDEF, Immigrant Legal Resource Center, and many others.
- The National Association of Social Workers California Chapter (NASW-CA) who designated SB1064 as one of three priority support bills for their annual “Lobby Day,” which had participation from over 1,000 NASW-CA members.
- A presentation given to a Social Work/Journalism seminar held at UC Berkeley would eventually generate three newspaper articles from the students in support of SB1064 (See Appendix 3).
- The support of the California Child Welfare Directors Association (CWDA) was critical in securing the governor’s support and avoiding opposition from the state child welfare department and courts. CWDA represents the human service directors for each of California’s 58 counties.

Public endorsement of the bill included letter of supports from the Santa Clara and San Francisco Board of Supervisors. There were also Republican legislators who voted and spoke in support of the bill. Eventually, over 50 organizations would sign on to the bill. There was no organization in opposition of the bill.

## Replicating the California Bill

In January 2012, a press conference on the “Shattered Families” report was held at the Arizona State University School of Social Work, which received widespread local and state media coverage (print, radio, and TV). The event was organized by long-time Arizona children’s advocate Laurie Melrood with participation and technical assistance by the First Focus Campaign for Children. Melrood engaged the over fifteen organizations who participated in the press conference to discuss potential legislative reforms.<sup>12</sup> And one year later, in February 2013, Arizona introduced Senate Bill 1303 (SB1303), sponsored by state Senator Linda Lopez (D-Tucson), Democratic Minority Whip. The bill provided a six-month extension for incarcerated immigrant parents in foster care trying to reunify with their children. Unfortunately, SB1303 was never assigned a Senate committee, but Senator Lopez has stated her interest in re-introducing the bill in 2014.

On February 27, 2013, Illinois introduced HB 3050, sponsored by state Representative Elizabeth Hernandez (D-Cicero), which replicated the California bill. After discussions with over seven key Illinois immigration and child welfare advocates involved in this bill, the Illinois coalition decided a better tactic would be to drop SB 3050 in favor of developing recommendations on the needs of immigrant families in the child welfare system through the creation of a statewide governor’s Task force. These recommendations could then lead to potential legislation in the next legislative sessions.

Finally, a bill is currently pending before the New York State Legislature, the “New York State Reuniting Families Act,” (S 4185/A 6337). The bill is sponsored by state Senator Kevin Parker (D-Brooklyn) and state Assembly member Ron Kim (D-Flushing), who represents the two most diverse districts in New York state. In addition to the four components of the California bill, the New York bill has implemented two more progressive, pragmatic solutions.

- A state-issued identification card would be created for all foster youth upon their request, including immigrant foster youth. These cards would be helpful in case children come to the attention of law enforcement in hopes that they are referred to child welfare caseworkers instead of automatically shuffled into the juvenile justice system.
- A virtual statewide information system with live help on case consultation would be created to assist court and child welfare staff on cases, utilizing existing organizations and agencies with expertise in working immigration issues.

A key partner in the development and expert consultation of the New York bill has been the students and faculty at Albany Law School. Under the supervision of former Albany Law School Law Clinic professors Sarah Rogerson and Melissa Breger, the law students have assisted in writing op-eds, soliciting letters of support, and meeting with legislative staff on the bill.

## Conclusion

America now has the opportunity to fix the undocumented immigration problem by passing comprehensive immigration reform. It is important in these discussions that the thousands of children and families who have been adversely impacted by this broken system and involved in the child welfare system are taken into consideration during this rare opportunity of reform. These state and federal legislative models show some

concrete and relatively straightforward steps in how the United States can strengthen its federal and state policy and practices to reaffirm its historic commitment to the principle of family unity. The legislation will decrease the upfront costs associated with the placement of children, by providing trainings and guidelines, as well as the longer-term care costs, by keeping children out of the foster care system.



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## Contact the Author

Yali Lincroft, MBA  
Policy Consultant  
First Focus Campaign for Children  
yali@childpublicpolicy.com

## Notes

<sup>1</sup> U.S. Immigration and Customs Enforcement. Deportation of Parents of U.S. Citizen Children July 1, 2010- September 30, 2102. Accessed by Colorlines.com on December 12, 2012.

<sup>2</sup> Nina Rabin. Disappearing Parents: A Report on Immigration Enforcement and the Child Welfare System (Tucson, Arizona: University of Arizona, May 2011). Emily Butera. Torn Apart by Immigration: Parental Rights and Immigration Detention (Washington DC: Women’s Refugee Commission, December 2009).

<sup>3</sup> Seth Wessler. Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System (New York, NY: Applied Research Center, Nov 2012).

<sup>4</sup> Seth Freed Wessler. Obama: Kids Stuck in Foster Care Due to Deportation a “Real Problem” (Colorlines, Nov 143, 2011).

<sup>5</sup> Migration Policy Institute, 2011. MPI Data Hub – California Social & Demographic Characteristics.

<sup>6</sup> Ibid.

<sup>7</sup> These policies can be found on the Migration and Child Welfare National Network website at <http://www.mcwnn.uic.edu>. For example, the “Illinois Policy Guide for Licensing, Payment & Placement with Undocumented Relatives” (May 2008) is available on <http://research.jacsw.uic.edu/icwnn/files/2013/01/Policy-Guide-Licensing-Payment-and-Placement.pdf>. “The Immigration and Language Access Handbook for New York City Social Workers” is found at <http://research.jacsw.uic.edu/icwnn/files/2013/01/Immigration-and-Language-Guidelines-for-Child-Welfare-Staff.pdf> and the “Procedural Guide for Live Scan and California Law Enforcement Telecommunications System Clearance” for Los Angeles County can be found at <http://research.jacsw.uic.edu/icwnn/files/2013/03/LA-Procedural-Guide-Live-Scan.pdf>.

<sup>8</sup> The article, “Helping Immigrant Families: Interviews with Four California Social Workers” published in the Sept 2008 issue of Children’s Voice, published by Child Welfare League of America, describes this screening process. <http://www.cwla.org/voice/0809immigrantfamilies.htm>.

<sup>9</sup> See the “New York City Administration for Children’s Services Memo on Special Immigrant Juvenile Status” (2010\_ available at <http://research.jacsw.uic.edu/icwnn/files/2013/03/pc-migration-sw-toolkit-flowchart1.pdf>.

<sup>10</sup> This estimate is based on an interview by the author with Laura Radel, Office of Human Services Policy, Health and Human Services in January 2013 regarding their research for an upcoming policy brief titled “Emerging Child Welfare Practice Regarding Immigrant Children in Foster Care: Collaborations with Foreign Consulates” Sample MOUs with the Mexican consulate are available on the Migration and Child Welfare National Network website at <http://research.jacsw.uic.edu/icwnn/state-specific-resources/>.

<sup>11</sup> California Health and Human Services Agency, Department of Social Services, Confidentiality, Fraud, Civil Rights, and State Hearings (2010). <http://www.dss.cahwnet.gov/ord/PG319.htm>.

<sup>12</sup> Over seven print, television, and radio stories were generated from this press conference held at Arizona State University School of Social Work in Tucson, Arizona. Some examples, include this article from Tucson Sentinel published on January 17, 2012, “American kids often left behind when parents deported – Thousands in foster care when detention, deportation splits families.” [http://www.tucson sentinel.com/local/report/011712\\_immigration/american-kids-often-left-behind-when-parents-deported/](http://www.tucson sentinel.com/local/report/011712_immigration/american-kids-often-left-behind-when-parents-deported/). The Arizona advocates also helped in the development of a new film from the Latino Policy Coalition titled “Shattered” regarding a young mother and her two children caught in the massive separation of US citizen children from their deported families.

## Appendix 1: Chaptered Legislation

### Senate Bill No. 1064

#### CHAPTER 845

An act to amend Section 3040 of the Family Code, to amend Sections 1510 and 1514 of the Probate Code, and to amend Sections 309, 361, 361.2, 361.3, 361.4, 361.5, 366.21, 366.215, 366.22, 366.25, 366.27, 388, and 16501.1 of, and to add Sections 10609.95 and 10609.97 to, the Welfare and Institutions Code, relating to child custody.

[Approved by Governor September 30, 2012. Filed with Secretary of State September 30, 2012.]

### Legislative Counsel's Digest

SB 1064, De León. Child custody: immigration.

(1) Under existing law, a child who is removed from the physical custody of his or her parent or parents in dissolution, dependency, or probate guardianship proceedings may be placed with a parent, relative, legal guardian, or other specified persons or in specified placement homes or facilities. When a child is placed with his or her relative during dependency proceedings and the relative is not a licensed or certified foster parent, existing law requires a county social worker to visit the relative's home, prior to placing the child in that home, to ascertain the appropriateness of the placement. Existing law also requires the court or county social worker to initiate a state and federal criminal records check of the relative through the California Law Enforcement Telecommunications System as part of the assessment.

This bill would permit a court to place a child in any of those proceedings with a parent, legal guardian, or relative regardless of the immigration status of the parent, legal guardian, or relative. This bill would also permit a relative's foreign consulate identification card or foreign passport to be used for initiating the criminal records and fingerprint clearance checks. To the extent this bill would impose additional duties on county welfare departments, this bill would create a state-mandated local program.

(2) Existing law sets forth the procedure for terminating the parental rights of a dependent child, including regular review hearings before a court may order a hearing to terminate parental rights. Under existing law, a court may continue these review hearings if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. This bill would authorize a court to extend the review hearing periods following consideration of the parent's circumstances if a parent has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, and, under these circumstances would authorize a court to continue the case only if the court finds that there is a substantial probability, as defined, that the child will be returned to the physical custody of his or her parent and safely maintained in the home within the extended time period or that reasonable services have not been provided to the parent or guardian.

(3) Existing law establishes the State Department of Social Services, which oversees the administration of county public social services, including child welfare services. This bill would require the State Department of Social Services to provide guidance on best practices and to facilitate an exchange of information and best practices among counties on an annual basis, beginning no later than January 1, 2014, on establishing memoranda of understanding with foreign consulates in juvenile court cases, including procedures for contacting a consulate, accessing a child's documentation, locating a detained parent, assisting in family reunification after a parent has been deported, aiding the safe transfer of a child to the parent's country of

origin, and communicating with relevant departments and services in a parent's country of origin, and procedures to assist children in juvenile court cases who are eligible for special immigrant juvenile status and other specified visas.

(4) The bill would change references in the above-described provisions from the United States Immigration and Customs Enforcement to the United States Department of Homeland Security, and would make other technical, nonsubstantive changes.

(5) This bill would incorporate additional changes in Section 3040 of the Family Code proposed by SB 1476 that would become operative only if SB 1476 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(6) This bill would incorporate additional changes in Section 361 of the Welfare and Institutions Code proposed by AB 1712 and AB 2060 that would become operative only if either or both of those bills are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(7) This bill would incorporate additional changes in Section 361.2 of the Welfare and Institutions Code proposed by AB 2209 that would become operative only if AB 2209 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(8) This bill would incorporate additional changes in Sections 361.5 and 16501.1 of the Welfare and Institutions Code proposed by AB 1712 and SB 1521 that would become operative only if either or both of these bills are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.(9) This bill would incorporate additional changes in Sections 366.21,366.22, and 366.25 of the Welfare and Institutions Code proposed by AB 1712 and AB 2292 that would become operative only if either or both of these bills are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(10) This bill would incorporate additional changes in Section 388 of the Welfare and Institutions Code proposed by AB 1712 that would become operative only if AB 1712 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(11) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

## Appendix 2: SB1064 Organizational Supporters (as of 9/13/12)

All Saints Church Foster Care Project  
Alternative Family Services  
American Civil Liberties Union of California  
American Federation of State, County, and Municipal Employees, AFL-CIO  
Applied Research Center  
Asian Americans for Civil Rights & Equality  
Asian Law Alliance  
ASISTA Immigration Assistance  
CAST - The Coalition to Abolish Slavery and Trafficking  
California Catholic Conference, Inc.  
California Child Welfare Directors Association  
California Immigrant Policy Center  
California Latinas for Reproductive Justice  
California Partnership  
California United for a Responsible Budget  
California Rural Legal Assistance Foundation  
California Youth Connection  
Center for Community Alternatives  
Central American Resource Center (CARECEN)  
Children's Defense Fund – CA  
Clergy and Laity United for Economic Justice, Los Angeles  
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)  
Community Works West  
Congregation of the Sisters of the Holy Cross  
First Focus Campaign for Children  
Franciscan Action Network  
Friends Committee on Legislation on California  
Guam Communications Network  
Iglesia de la Comunidad, Presbyterian Church USA  
Immigrant Legal Resource Center Justice Now  
Latino Policy Coalition  
Legal Services for Children  
Legal Services for Children  
Legal Services for Prisoners with Children  
Lutheran Office of Public Policy California Mexican American Legal Defense and Education Fund  
MomsRising.org  
Mujeres Unidas y Activas  
National Association of Social Workers – California Chapter  
Restoration Project, Tucson/Arizona  
Public Counsel  
Safe Passages  
San Francisco Board of Supervisors  
Santa Clara Board of Supervisors  
Services, Immigrant Rights & Education Network  
Street Level Health Project  
Tongan Community Service Center  
Tucson Samaritans  
The Young Center for Immigrant Children's Rights  
9to5 National Association of Working Women

## Appendix 3: Media Coverage of SB1064

[Immigrant Family Reunification Bill Signed into Law by Governor](#)

(Press Release, Office of Senator Kevin de León, Oct 1, 2012)

[California Governor Signs Landmark Legislation Addressing Shattered Families](#)

(by Yali Lincroft, First Focus Campaign for Children, Oct 1, 2012)

[California passes groundbreaking legislation to prevent shattered families](#)

(by Yali Lincroft, *Immigration Impacts*, Oct 2012)

[Helping Shattered Families - California Legislation Needs Governor's Signature to Become Law](#)

(by Yali Lincroft, First Focus Campaign for Children, Aug 30, 2012)

[As thousands of parents are deported, U.S. citizen kids face fallout](#)

(by Helen O'Neill, AP Reporter, *Nemser*, Aug 25, 2012)

[Immigration and Keeping Families Intact](#)

(*Los Angeles Times* Editorial, July 31, 2012)

[Children Bearing Brunt of Deportation](#)

(by Viveka Garza-Gómez, *Latino Fox News*, July 20, 2012)

[Mother who sold tamales outside Walmart faces deportation](#)

(by Stephen Magagnini, *Sacramento Bee*, July 19, 2012)

[Immigrant Mom Loses Effort to Regain Son Given to US Parents](#)

(by Brian Ross and Angela M. Hill, *ABC News*, July 18, 2012)

[Pesadilla de hijos de padres deportados](#)

(by Maria Elena Salinas, *Univision* - video and story, May 19, 2012)

[California Senate Moves to Protect Immigrant Families in Deportation](#)

(by Seth Freed Wessler, *Colorlines*, Mar 28, 2012)

[In California, an attempt to keep some deportee's children out of foster care](#)

(by Leslie Berestein Rojas, 89.3 KPCC, *National Public Radio*, Mar 28, 2012)

[What about the kids - what can happen when parents are deported](#)

(by Leslie Berestein Rojas, 89.3 KPCC, *National Public Radio* - Southern California, Feb 3, 2012)

[ON PARENTAL RIGHTS - Detained immigrants losing Kids](#)

(Op Ed by Professor Kurt C. Organista, UC Berkeley School of Social Work, *SFGate.com*, Aug 27, 2012)

OPEN FORUM On Parental Rights

# Immigrants losing their kids

By Kurt C. Organista

Immigration Romero, a Guatemalan woman living in the United States without the proper papers, was arrested and detained in May 2007. Her son, Carlos, was born in the United States. Yet, at a court hearing that Romero could not attend because she was in an immigration detention center, a Missouri judge ordered her child put up for adoption.

Two years later, Immigration persuaded the Missouri Supreme Court to reverse the case and to order a new hearing. In July, Romero's 3-year-old son was crushed when the judge ordered the child to remain with the adoptive parents.

State Sen. Kevin DeLeon, D-Los Angeles, says there's

nothing unique about the Romero case. "One of my colleagues, a Nicaraguan woman, was charged with neglect as a result of her detention. She was deported and her parental rights were terminated." He has authored legislation, SB606, which seeks to protect the rights of parents, regardless of their citizenship status. SB606 passed out of the state Senate in May on a 28-7 vote. To become law, the Assembly must pass the bill by Friday.

These stories exemplify what happens almost daily when federal immigration and state child welfare systems intersect. Immigration and Child Protective Services have procedures for handling such cases: the parents are penalized for not filing time-sensitive

the focus of attorney custody court cases, which often results in the loss of custody of their child.

To get an idea of the magnitude of the problem, in the first half of 2011, 46,984 undocumented parents of U.S.-born children were removed from the country, according to a report prepared by the Applied Research Center, a racial justice think tank. Their data obtained under the Freedom of Information Act: Of those parents, 3,420 were from the Los Angeles, San Diego and San Francisco areas.

Such removals add to the 5,100 children of deported immigrants now in the child welfare system throughout the United States. At the current pace of deportations, that number will triple unless we enact policies to prevent parent-child separations.

Shiroma seeks to do so in California by:

► Creating policies that give detained parents the option of placing their children with trusted relatives or family friends.

► Expanding Child Protective Services and custody court requirements to accommodate detained or deported parents.

► Establishing partnerships with foreign consulates to facilitate family reunification.

► Awaiting further overhauling the state's child welfare system, which already is filled beyond capacity with abused and neglected children.

No matter where you stand on today's immigration debate, most people can agree that detentions and deportations never were intended to separate children from their parents.

Some might say it's the parents' fault for placing their children in such a predicament. A few might even advise sure parents of having "anchor babies" in order to

remain in the United States. That idea ignores that protection of family members is a core value of Latino culture. Californians can and should keep children out of foster care that do not belong there.

To that end, Child Protective Services in San Francisco and Los Angeles have implemented agreements with the Mexican government. The Mexican consulates convey information to deported parents about their children in California's child welfare system, or help search for deported parents.

While such local efforts are admirable, a state law would work better to govern family separations. Ask your legislative representative to support SB606. If the Legislature passes the bill Tuesday, tell the governor he should sign it.

*Kurt C. Organista is a professor in the School of Social Welfare at UC Berkeley. He wrote this column with candidate State Attorney Francisco Alvarado, Alvaro Cisneros and Kelly Casado.*

## Appendix 4: Research and Policy Reports

Shattered Families - The Perilous Intersection of Immigration Enforcement and the Child Welfare System  
(Applied Research Center)

<http://www.arc.org/shatteredfamilies>

Caught Between Systems – The Intersection of Immigration and Child Welfare (First Focus)

<http://firstfocus.net/library/reports/caught-between-systems-the-intersection-of-immigration-and-child-welfare-policies>

Disappearing Parents: A Report on Immigration Enforcement and the Child Welfare System (University of Arizona, Bacon Immigration Law and Policy Program)

[http://www.law.arizona.edu/depts/bacon\\_program/disappearing\\_parents\\_report.cfm](http://www.law.arizona.edu/depts/bacon_program/disappearing_parents_report.cfm)

Torn Apart by Immigration Enforcement: Parental Rights and Immigration Detention (Women's Refugee Commission)

<http://womensrefugeecommission.org/programs/detention/parental-rights>

# Appendix 5: Letter of Support from the California Child Welfare Directors Association

July 19, 2012 1:24PM

No. 3423 P. 1



July 19, 2012

The Honorable Kevin DeLeon  
Room 5108, State Capitol  
Sacramento, CA 95814

Dear Senator DeLeon:

**RE: SB 1064 (De Leon) As Amended April 16, 2012 –  
SUPPORT**

The County Welfare Directors Association of California (CWDA) has taken a position of SUPPORT on your SB 1064 by Senator De Leon. This bill would support and enhance family reunification efforts in the child welfare system for immigrant families.

#### EXECUTIVE COMMITTEE

##### President

Bruce Wiggstaff, Sacramento County, CSA

##### Vice President at Large

Charlene Reid, Tehama County

##### Executive Officer

Elliot Robinson, Monterey County

##### Secretary/Treasurer

Susan Loew, Riverside County

##### Vice President of Administration

Cecilia Espinola, Santa Cruz County

##### Vice President of Program

Barry Zimmerman, Ventura County

##### Vice President of Services

Michael Riley, Orange County

##### Los Angeles County Representatives

Sheryl Spillar, Department of  
Public Social Services

Philip Growling, Department of  
Children & Family Services

##### Twenty Small Counties Representatives

Mary Saefeli, Calaveras County  
Elizabeth Kelly, Colusa County

##### Legislative

Trent Rhoter, San Francisco County

##### Fiscal

Cathi Greens, Butte County

Lizula Haugan, San Bernardino County

##### Executive Director

Frank Mecca, CWDA

As a result of increased collaboration between U.S. Immigration and Customs Enforcement and local law enforcement through programs that deputize law enforcement as immigration agents, the number of detained parents is rising substantially. Unfortunately, these parents also are at risk of losing custody of their children in the process. Currently there are at least 5,100 children nationwide in the child welfare system because their parents are under immigration custody or have been deported, and this number is expected to grow in the next five years. The majority of these children are United States citizens.

When children enter the child welfare system due to abuse or neglect, social workers prioritize family reunification when in the best interest of the child. However, many immigrant families have a limited opportunity for family reunification because of detention or deportation. A parent accused of a non-serious crime would normally be released from custody and thus would be able to follow through with the family reunification process. In contrast, non-citizen parents are frequently unable to access services and meet requirements set out by dependency courts to regain custody of their children. This is further complicated by a parent's deportation because of the difficulty in making arrangements in the country of origin. Because immigrant relatives may be willing to take custody of a child when a parent is detained or deported, it is critical to ensure that the courts and social workers understand that children can be placed with parents and relatives even if they are undocumented.

Many counties, such as Los Angeles, Santa Clara, San Francisco, and Fresno, have policies in place that make family reunification or relative placement feasible for these families, including alternative ways of identifying relatives for background checks and partnerships with foreign consulates. Systemic policies that specifically address these issues for the entire state, as SB 1064 would provide, will help to ensure that children whose parents are placed in stable environments.

Given California's fiscal woes, promoting relative placement and family reunification for immigrant families has the potential to decrease costs in the child

COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA  
925 L Street, Suite 350, Sacramento, CA 95814 • 916.443.1749 TEL • 916.443.3202 FAX

CWDA Letter on SB 1064  
July 19, 2012  
Page Two

welfare system, as fewer children will be placed into care in the first place and fewer will be kept in foster care unnecessarily. For these reasons CWDA has taken a position of SUPPORT on your SB 1060.

Sincerely,



Cathy Senderling-McDonald  
Deputy Executive Director

## Appendix 6: San Francisco Board of Supervisors Resolution in Support of SB1064 and HR6128

**GEORGE M. SHIRAKAWA**  
PRESIDENT, BOARD OF SUPERVISORS  
COUNTY OF SANTA CLARA SUPERVISOR, SECOND DISTRICT  
COUNTY GOVERNMENT CENTER, EAST WING  
70 WEST HEDDING STREET, 10TH FLOOR  
SAN JOSE, CALIFORNIA 95110  
TEL: (408) 299-5020 FAX: (408) 295-8642  
george.shirakawa@bos.sccgov.org • www.supervisorshirakawa.org



March 28, 2012

The Honorable Noreen Evans  
Chair, Senate Judiciary Committee  
State Capitol Building, Room 2187  
Sacramento, CA 95814

**RE: SB 1064 (De León) As Amended March 19, 2012 - SUPPORT**

Dear Chairperson Evans:

The Santa Clara County Board of Supervisors is pleased to support SB 1064 (De León), a measure to eliminate family reunification barriers that immigrant families experience in the child welfare system.

Currently, there are at least 5,100 children nationwide in the child welfare system because their parents are under immigration custody or have been deported, and this number is expected to increase dramatically in the next five years. The majority of these children are United States citizens. When searching for a placement for these children, close family members may be unintentionally excluded from consideration because of their own immigration status.

SB 1064 would address this problem by allowing children to be placed with relatives, regardless of the relatives' immigration status. This measure would provide for greater security for vulnerable children, and we respectfully request your support for it when it is heard by your Senate Judiciary Committee.

Sincerely,

George Shirakawa  
President, Board of Supervisors

c: Members, Senate Judiciary Committee  
Senator Kevin De León  
Santa Clara County Legislative Delegation  
Board of Supervisors  
Jeffrey V. Smith, County Executive  
Michael Rattigan, Legislative Representative



# Appendix 7: Reuniting Families Act Website

## S-4185 & A-6377

New York State Reuniting Families Act

A Bill To Reunite Families In New York State

[HOME](#) | [ABOUT](#) | [LEGISLATION](#) | [BACKGROUND](#) | [MEDIA](#) | [LETTERS & RESOLUTIONS](#) | [RESEARCH](#)



### New York State Reuniting Families Act: S 4185 (Senator Kevin Parker) and A 6377 (Assembly Member Ron Kim)

Organization Sponsor: First Focus Campaign for Children

The goal of S-4185 and A-6377 is to address the problems encountered when immigration enforcement and the child welfare system intersects. S-4185 and A-6377 prioritizes keeping children with their families and out of the public child welfare system whenever possible and ensures that separated families receive appropriate care and due process.

Background Information.

#### What is the Goal of S-4185 and A-6377?

This bill addresses the problems encountered when immigration enforcement and the child welfare system intersects. S-4185 and A-6377 prioritizes keeping children with their families ...

[Read More...](#)

#### Why is S-4185 and A-6377 necessary?

Enforcement activities conducted by ICE and some law enforcement agencies too often result in unnecessary harm to children, families and communities. When a parent has a child ...

[Read More...](#)

#### What's the bottom line?

While many detained parents will not have their children entered the foster care system, there is an increased risk of unnecessary and expensive foster care involvement due to the lack of attention to this issue. Child welfare ...

[Read More...](#)

#### What are the basic components of S-4185 and A-6377?

- (1) Authorize the court to provide an extension in the family reunification period so that child welfare agencies can provide a more diligent search for parents who may be detained or deported, or help find a potential relative placement.
- (2) Affirm that immigration status per se is not a disqualifying factor in evaluating placement of a child with a relative (including their own parents). Authorize use of a relative's foreign consulate identification card or passport to be used to initiate fingerprint clearance so that a relative can be a placement for their relative child in the foster care system.
- (3) Require the New York State Office of Children and Family Services (OCFS) to provide guidance to social workers on referring children eligible for Special Immigrant Juvenile Status and other immigration relief options to receive assistance in acquiring protective status. Case workers and court staff are sometimes the first and only person an immigrant child or family encounters who may be able to identify their eligibility for certain immigration relief options.
- (4) Require OCFS to provide guidance to counties and municipalities to establish Memorandums of Understandings with appropriate foreign consulates in child custody cases. Article 22 of the Vienna Convention on Consular Relations clearly states that consular officers have the right to assist their nationals in cases of death, guardianship or trusteeships and that consular post shall be informed without delay. However, there is inconsistent and under-utilization of the consular offices.
- (5) Provide OCFS identification cards for foster youth upon request which includes their court docket number and the child welfare agency contact.
- (6) Establish a virtual statewide information system, with fee help case consultation to assist court and child welfare staff on cases, utilizing existing organizations and agencies with expertise in working on immigration issues.



At least 5100 children who are presently in foster care whose parents have been detained or deported

COLORLINES.com

#### Search This Site

#### CONTACT INFORMATION

Umair Khan, Counsel  
Office of State Senator Kevin Parker (D-Brooklyn)  
6th Legislative Office Building, Albany, NY 12247  
Phone: 518-485-9310 • mkh1@ndny.state.ny.us

Yuh-lin Mao, Chief of Staff  
Office of Assembly Member Ron Kim  
LOB 446, Albany, NY 12247  
Phone: 518-485-9311 • yuhlin@ronkim.com

#### Legislative Calendar

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S-4185 - New York State Reuniting Families Act
Webmaster: Mark L. Belkin, Esq. Contact: markbelkin@gmail.com