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AMENDED IN ASSEMBLY JANUARY 26, 2010

AMENDED IN ASSEMBLY JANUARY 11, 2010

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 743

Introduced by Assembly Member Portantino

February 26, 2009

An act to amend Sections 362.1 and 16002 of, and to repeal and add Section 16010.6 of, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 743, as amended, Portantino. Foster care: sibling placement.

Existing law provides for the placement of dependent children by the juvenile court according to specified procedures. Existing law declares the policy of the Legislature relating to foster care, including that foster care should be a temporary method of care for children and that reunification with the natural parent or parents or another alternate permanent living situation such as adoption or guardianship is more suitable to a child's well-being than is foster care.

Existing law requires any order placing a dependent child in foster care, and ordering reunification services, to provide for visitation between the child and any sibling, unless the court finds by clear and

convincing evidence that sibling interaction is detrimental to either child.

This bill would, instead, require the order to provide for visitation unless the court finds by clear and convincing evidence that the interaction is contrary to the safety or well-being of either child.

Existing law requires the responsible local agency to make diligent efforts in all out-of-home placements of dependent children to develop and maintain sibling relationships. If siblings are not placed together, the social worker is required to explain why those efforts are not appropriate.

This bill would, instead, require the social worker, if siblings are not placed together, to explain why those efforts ~~are~~ *would be* contrary to the safety or well-being of any ~~sibling~~ *siblings*. *The bill also would require the social worker to make diligent efforts to place siblings together in the same placement.*

Existing law requires, as soon as possible after a placing agency makes a decision with respect to a placement or a change in placement of a dependent child, the placing agency to notify the child’s attorney and provide specified information.

This bill would recast and revise the above requirements relating to the placement of siblings, including requiring the placing agency to make a specified notification to the child’s attorney and the child’s sibling’s attorney when a planned change of placement will result in the separation of siblings currently placed together.

By increasing the duties of social workers and county placing agencies, this bill would impose 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, 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 362.1 of the Welfare and Institutions
- 2 Code is amended to read:

1 362.1. (a) In order to maintain ties between the parent or
2 guardian and any siblings and the child, and to provide information
3 relevant to deciding if, and when, to return a child to the custody
4 of his or her parent or guardian, or to encourage or suspend sibling
5 interaction, any order placing a child in foster care, and ordering
6 reunification services, shall provide as follows:

7 (1) (A) Subject to subparagraph (B), for visitation between the
8 parent or guardian and the child. Visitation shall be as frequent as
9 possible, consistent with the well-being of the child.

10 (B) No visitation order shall jeopardize the safety of the child.
11 To protect the safety of the child, the court may keep the child's
12 address confidential. If the parent of the child has been convicted
13 of murder in the first degree, as defined in Section 189 of the Penal
14 Code, and the victim of the murder was the other parent of the
15 child, the court shall order visitation between the child and the
16 parent only if that order would be consistent with Section 3030 of
17 the Family Code.

18 (2) Pursuant to subdivision (b) of Section 16002, for visitation
19 between the child and any siblings, unless the court finds by clear
20 and convincing evidence that sibling interaction is contrary to the
21 safety or well-being of either child.

22 (3) If the child is a teen parent who has custody of his or her
23 child and that child is not a dependent of the court pursuant to this
24 chapter, for visitation among the teen parent, the child's
25 noncustodial parent, and appropriate family members, unless the
26 court finds by clear and convincing evidence that visitation would
27 be detrimental to the teen parent.

28 (b) When reunification services are not ordered pursuant to
29 Section 361.5, the child's plan for legal permanency shall include
30 consideration of the existence of and the relationship with any
31 sibling pursuant to Section 16002, including their impact on
32 placement and visitation.

33 (c) As used in this section, "sibling" means a child related to
34 another person by blood, adoption, or affinity through a common
35 legal or biological parent.

36 SEC. 2. Section 16002 of the Welfare and Institutions Code is
37 amended to read:

38 16002. (a) It is the intent of the Legislature to maintain the
39 continuity of the family unit, and ensure the preservation and
40 strengthening of the child's family ties by ensuring that when

1 siblings have been removed from their home, either as a group on
2 one occurrence or individually on separate occurrences, the siblings
3 will be placed in foster care together, unless it has been determined
4 that placement together is contrary to the safety or well-being of
5 any sibling. The Legislature recognizes that in order to ensure the
6 placement of a sibling group in the same foster care placement,
7 placement resources need to be expanded.

8 (b) The responsible local agency shall make a diligent effort in
9 all out-of-home placements of dependent children, including those
10 with relatives, *to place siblings together in the same placement,*
11 *and* to develop and maintain sibling relationships. If siblings are
12 not placed together in the same home, the social worker shall
13 explain why the siblings are not placed together and what efforts
14 he or she is making to place the siblings together or why *making*
15 ~~those efforts are~~ *would be* contrary to the safety ~~or~~ *and* well-being
16 of any ~~sibling~~ *siblings of the siblings*. When placement of siblings together
17 in the same home is not possible, a diligent effort shall be made,
18 and a case plan prepared, to provide for ongoing and frequent
19 interaction among siblings until family reunification is achieved,
20 or, if parental rights are terminated, as part of developing the
21 permanent plan for the child. If the court determines by clear and
22 convincing evidence that sibling interaction is contrary to the safety
23 ~~or~~ *and* well-being of any ~~sibling~~ *siblings of the siblings*, the reasons for the
24 determination shall be noted in the court order, and interaction
25 shall be suspended.

26 (c) When there has been a judicial suspension of sibling
27 interaction, the reasons for the suspension shall be reviewed at
28 each periodic review hearing pursuant to Section 366. When the
29 court determines that sibling interaction can be safely resumed,
30 that determination shall be noted in the court order and the case
31 plan shall be revised to provide for sibling interaction.

32 (d) If the case plan for the child has provisions for sibling
33 interaction, the child, or his or her parent or legal guardian shall
34 have the right to comment on those provisions. If a person wishes
35 to assert a sibling relationship with a dependent child, he or she
36 may file a petition in the juvenile court having jurisdiction over
37 the dependent child pursuant to subdivision (b) of Section 388.

38 (e) If parental rights are terminated and the court orders a
39 dependent child to be placed for adoption, the licensed county
40 adoption agency or the State Department of Social Services shall

1 take all of the following steps to facilitate ongoing sibling contact,
2 except in those cases provided in subdivision (b) where the court
3 determines by clear and convincing evidence that sibling interaction
4 is contrary to the safety or well-being of the child:

5 (1) Include in training provided to prospective adoptive parents
6 information about the importance of sibling relationships to the
7 adopted child and counseling on methods for maintaining sibling
8 relationships.

9 (2) Provide prospective adoptive parents with information about
10 siblings of the child, except the address where the siblings of the
11 children reside. However, this address may be disclosed by court
12 order for good cause shown.

13 (3) Encourage prospective adoptive parents to make a plan for
14 facilitating postadoptive contact between the child who is the
15 subject of a petition for adoption and any siblings of this child.

16 (f) Information regarding sibling interaction, contact, or
17 visitation that has been authorized or ordered by the court shall be
18 provided to the foster parent, relative caretaker, or legal guardian
19 of the child as soon as possible after the court order is made, in
20 order to facilitate the interaction, contact, or visitation.

21 (g) As used in this section, “sibling” means a child related to
22 another person by blood, adoption, or affinity through a common
23 legal or biological parent.

24 (h) The court documentation on sibling placements required
25 under this section shall not require the modification of existing
26 court order forms until the Child Welfare Services Case
27 Management System is implemented on a statewide basis.

28 SEC. 3. Section 16010.6 of the Welfare and Institutions Code
29 is repealed.

30 SEC. 4. Section 16010.6 is added to the Welfare and
31 Institutions Code, to read:

32 16010.6. (a) As soon as a placing agency makes a decision
33 with respect to a placement or a change in placement of a
34 dependent child, but not later than the close of the following
35 business day, the placing agency shall notify the child’s attorney
36 and provide to the child’s attorney information regarding the child’s
37 address, telephone number, and caregiver.

38 (b) Absent exigent circumstances, as soon as a placing agency
39 becomes aware of the need for a change in placement of a
40 dependent child that will result in the separation of siblings

1 currently placed together, the placing agency shall notify the child's
2 attorney and the child's siblings' attorney of this proposed
3 separation no less than 10 calendar days prior to the planned change
4 of placement so that the attorneys may investigate the
5 circumstances of the proposed separation. If the placing agency
6 first becomes aware, by written notification from a foster family
7 agency, group home, or other foster care provider, of the need for
8 a change in placement for a dependent child that will result in the
9 separation of siblings currently placed together, and that the child
10 or children shall be removed within seven days, then notice shall
11 be provided to the attorneys ~~no fewer than seven days before the~~
12 ~~planned change of placement~~ *by the end of the next business day*
13 *after the receipt of notice from the provider.* In an emergency, the
14 placing agency shall provide notice as soon as possible, but no
15 later than the close of the first business day following the change
16 of placement. This notification shall be deemed sufficient notice
17 for the purposes of subdivision (a).

18 (c) When the required notice is given prior to a change in
19 placement, the notice shall include information regarding the
20 child's address, telephone number, and caregiver or any one or
21 more of these items of information to the extent that this
22 information is known at the time that the placing agency provides
23 notice to the child's attorney. When the required notice is given
24 after the change in placement, notice shall include information
25 regarding the child's address, telephone number, and caregiver.

26 (d) The Judicial Council shall adopt a rule of court directing the
27 attorney for a child for whom a dependency petition has been filed,
28 upon receipt from the agency responsible for placing the child of
29 the name, address, and telephone number of the child's caregiver,
30 to timely provide the attorney's contact information to the caregiver
31 and, if the child is 10 years of age or older, to the child. This rule
32 does not preclude an attorney from giving contact information to
33 a child who is younger than 10 years of age.

34 SEC. 5. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

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