

Introduced by Senator Runner

February 18, 2011

An act to amend Section 361.3 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 926, as introduced, Runner. Dependent children: relative placements: disclosure.

Existing law requires that in any case in which a child is removed from the physical custody of his or her parents due to abuse or neglect, preferential consideration be given to a request by a relative of the child for placement of the child with the relative. Existing law requires the court to authorize the county social worker, in assessing relatives for the possibility of placement, to disclose to the relative, as appropriate, the fact that the child is in custody, the alleged reasons for the custody, and the projected likely date for the child's return home or placement for adoption or legal guardianship.

This bill would expand those provisions to additionally require the court to authorize an attorney for the child, or his or her agent, to make those disclosures to the relative when assessing the relative for the possibility of placement.

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

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

- 1 SECTION 1. Section 361.3 of the Welfare and Institutions
- 2 Code is amended to read:

- 1 361.3. (a) In any case in which a child is removed from the
2 physical custody of his or her parents pursuant to Section 361,
3 preferential consideration shall be given to a request by a relative
4 of the child for placement of the child with the relative. In
5 determining whether placement with a relative is appropriate, the
6 county social worker and court shall consider, but shall not be
7 limited to, consideration of all the following factors:
- 8 (1) The best interest of the child, including special physical,
9 psychological, educational, medical, or emotional needs.
 - 10 (2) The wishes of the parent, the relative, and child, if
11 appropriate.
 - 12 (3) The provisions of Part 6 (commencing with Section 7950)
13 of Division 12 of the Family Code regarding relative placement.
 - 14 (4) Placement of siblings and half siblings in the same home,
15 if that placement is found to be in the best interest of each of the
16 children as provided in Section 16002.
 - 17 (5) The good moral character of the relative and any other adult
18 living in the home, including whether any individual residing in
19 the home has a prior history of violent criminal acts or has been
20 responsible for acts of child abuse or neglect.
 - 21 (6) The nature and duration of the relationship between the child
22 and the relative, and the relative's desire to care for, and to provide
23 legal permanency for, the child if reunification is unsuccessful.
 - 24 (7) The ability of the relative to do the following:
 - 25 (A) Provide a safe, secure, and stable environment for the child.
 - 26 (B) Exercise proper and effective care and control of the child.
 - 27 (C) Provide a home and the necessities of life for the child.
 - 28 (D) Protect the child from his or her parents.
 - 29 (E) Facilitate court-ordered reunification efforts with the parents.
 - 30 (F) Facilitate visitation with the child's other relatives.
 - 31 (G) Facilitate implementation of all elements of the case plan.
 - 32 (H) Provide legal permanence for the child if reunification fails.
 - 33 However, any finding made with respect to the factor considered
34 pursuant to this subparagraph and pursuant to subparagraph (G)
35 shall not be the sole basis for precluding preferential placement
36 with a relative.
 - 37 (I) Arrange for appropriate and safe child care, as necessary.
 - 38 (8) The safety of the relative's home. For a relative to be
39 considered appropriate to receive placement of a child under this

1 section, the relative’s home shall first be approved pursuant to the
2 process and standards described in subdivision (d) of Section 309.

3 In this regard, the Legislature declares that a physical disability,
4 such as blindness or deafness, is no bar to the raising of children,
5 and a county social worker’s determination as to the ability of a
6 disabled relative to exercise care and control should center upon
7 whether the relative’s disability prevents him or her from exercising
8 care and control. The court shall order the parent to disclose to the
9 county social worker the names, residences, and any other known
10 identifying information of any maternal or paternal relatives of
11 the child. This inquiry shall not be construed, however, to guarantee
12 that the child will be placed with any person so identified. The
13 county social worker shall initially contact the relatives given
14 preferential consideration for placement to determine if they desire
15 the child to be placed with them. Those desiring placement shall
16 be assessed according to the factors enumerated in this subdivision.
17 The county social worker shall document these efforts in the social
18 study prepared pursuant to Section 358.1. The court shall authorize
19 the county social worker *and the attorney for the child appointed*
20 *pursuant to subdivision (c) of Section 317 and his or her agent,*
21 while assessing these relatives for the possibility of placement, to
22 disclose to the relative, as appropriate, the fact that the child is in
23 custody, the alleged reasons for the custody, and the projected
24 likely date for the child’s return home or placement for adoption
25 or legal guardianship. However, this investigation shall not be
26 construed as good cause for continuance of the dispositional
27 hearing conducted pursuant to Section 358.

28 (b) In any case in which more than one appropriate relative
29 requests preferential consideration pursuant to this section, each
30 relative shall be considered under the factors enumerated in
31 subdivision (a).

32 (c) For purposes of this section:

33 (1) “Preferential consideration” means that the relative seeking
34 placement shall be the first placement to be considered and
35 investigated.

36 (2) “Relative” means an adult who is related to the child by
37 blood, adoption, or affinity within the fifth degree of kinship,
38 including stepparents, stepsiblings, and all relatives whose status
39 is preceded by the words “great,” “great-great” or “grand” or the
40 spouse of any of these persons even if the marriage was terminated

1 by death or dissolution. However, only the following relatives
2 shall be given preferential consideration for the placement of the
3 child: an adult who is a grandparent, aunt, uncle, or sibling.

4 (d) Subsequent to the hearing conducted pursuant to Section
5 358, whenever a new placement of the child must be made,
6 consideration for placement shall again be given as described in
7 this section to relatives who have not been found to be unsuitable
8 and who will fulfill the child’s reunification or permanent plan
9 requirements. In addition to the factors described in subdivision
10 (a), the county social worker shall consider whether the relative
11 has established and maintained a relationship with the child.

12 (e) If the court does not place the child with a relative who has
13 been considered for placement pursuant to this section, the court
14 shall state for the record the reasons placement with that relative
15 was denied.

16 (f) (1) With respect to a child who satisfies the criteria set forth
17 in paragraph (2), the department and any licensed adoption agency
18 may search for a relative and furnish identifying information
19 relating to the child to that relative if it is believed the child’s
20 welfare will be promoted thereby.

21 (2) Paragraph (1) shall apply if both of the following conditions
22 are satisfied:

- 23 (A) The child was previously a dependent of the court.
- 24 (B) The child was previously adopted and the adoption has been
25 disrupted, set aside pursuant to Section 9100 or 9102 of the Family
26 Code, or the child has been released into the custody of the
27 department or a licensed adoption agency by the adoptive parent
28 or parents.

29 (3) As used in this subdivision, “relative” includes a member
30 of the child’s birth family and nonrelated extended family
31 members, regardless of whether the parental rights were terminated,
32 provided that both of the following are true:

- 33 (A) No appropriate potential caretaker is known to exist from
34 the child’s adoptive family, including nonrelated extended family
35 members of the adoptive family.
- 36 (B) The child was not the subject of a voluntary relinquishment
37 by the birth parents pursuant to Section 8700 of the Family Code
38 or Section 1255.7 of the Health and Safety Code.

O