

ASSEMBLY BILL

No. 2391

Introduced by Assembly Member Ian Calderon

February 21, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2391, as introduced, Ian Calderon. Dependent children: placement.

Under existing law, a child who is removed from the physical custody of his or her parent or parents in dependency proceedings may be placed with a parent, relative, legal guardian, or other specified persons or in specified placement homes or facilities. Existing law gives preferential consideration to a request by a relative of the dependant child for placement of the child with the relative, as specified. Existing law requires the county social worker and the court to consider certain factors in determining whether placement with a relative is appropriate, including, among others, the best interest of the child and the nature and duration of the relationship between the child and the relative, as specified. Existing law requires that, subsequent to a specified hearing on the proper disposition to be made of the child, whenever a new placement of the child must be made, consideration for placement to again be given to relatives who have not been found to be unsuitable and who will fulfill the child's reunification or permanent plan requirements.

This bill would instead provide that subsequent to the disposition hearing described above and throughout the reunification period, consideration for placement shall again be given to relatives who have

not been found to be unsuitable and who will fulfill the child’s reunification or permanent plan requirements. By increasing the duties of county social workers, this bill would create 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 361.3 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 361.3. (a) In any case in which a child is removed from the
- 4 physical custody of his or her parents pursuant to Section 361,
- 5 preferential consideration shall be given to a request by a relative
- 6 of the child for placement of the child with the relative, regardless
- 7 of the relative’s immigration status. In determining whether
- 8 placement with a relative is appropriate, the county social worker
- 9 and court shall consider, but shall not be limited to, consideration
- 10 of all the following factors:
- 11 (1) The best interest of the child, including special physical,
- 12 psychological, educational, medical, or emotional needs.
- 13 (2) The wishes of the parent, the relative, and child, if
- 14 appropriate.
- 15 (3) The provisions of Part 6 (commencing with Section 7950)
- 16 of Division 12 of the Family Code regarding relative placement.
- 17 (4) Placement of siblings and half siblings in the same home,
- 18 if that placement is found to be in the best interest of each of the
- 19 children as provided in Section 16002.
- 20 (5) The good moral character of the relative and any other adult
- 21 living in the home, including whether any individual residing in
- 22 the home has a prior history of violent criminal acts or has been
- 23 responsible for acts of child abuse or neglect.

1 (6) The nature and duration of the relationship between the child
2 and the relative, and the relative's desire to care for, and to provide
3 legal permanency for, the child if reunification is unsuccessful.

4 (7) The ability of the relative to do the following:

5 (A) Provide a safe, secure, and stable environment for the child.

6 (B) Exercise proper and effective care and control of the child.

7 (C) Provide a home and the necessities of life for the child.

8 (D) Protect the child from his or her parents.

9 (E) Facilitate court-ordered reunification efforts with the parents.

10 (F) Facilitate visitation with the child's other relatives.

11 (G) Facilitate implementation of all elements of the case plan.

12 (H) Provide legal permanence for the child if reunification fails.

13 However, any finding made with respect to the factor considered
14 pursuant to this subparagraph and pursuant to subparagraph (G)
15 shall not be the sole basis for precluding preferential placement
16 with a relative.

17 (I) Arrange for appropriate and safe child care, as necessary.

18 (8) The safety of the relative's home. For a relative to be
19 considered appropriate to receive placement of a child under this
20 section, the relative's home shall first be approved pursuant to the
21 process and standards described in subdivision (d) of Section 309.

22 In this regard, the Legislature declares that a physical disability,
23 such as blindness or deafness, is no bar to the raising of children,
24 and a county social worker's determination as to the ability of a
25 disabled relative to exercise care and control should center upon
26 whether the relative's disability prevents him or her from exercising
27 care and control. The court shall order the parent to disclose to the
28 county social worker the names, residences, and any other known
29 identifying information of any maternal or paternal relatives of
30 the child. This inquiry shall not be construed, however, to guarantee
31 that the child will be placed with any person so identified. The
32 county social worker shall initially contact the relatives given
33 preferential consideration for placement to determine if they desire
34 the child to be placed with them. Those desiring placement shall
35 be assessed according to the factors enumerated in this subdivision.
36 The county social worker shall document these efforts in the social
37 study prepared pursuant to Section 358.1. The court shall authorize
38 the county social worker, while assessing these relatives for the
39 possibility of placement, to disclose to the relative, as appropriate,
40 the fact that the child is in custody, the alleged reasons for the

1 custody, and the projected likely date for the child’s return home
2 or placement for adoption or legal guardianship. However, this
3 investigation shall not be construed as good cause for continuance
4 of the dispositional hearing conducted pursuant to Section 358.

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

9 (c) For purposes of this section:

10 (1) “Preferential consideration” means that the relative seeking
11 placement shall be the first placement to be considered and
12 investigated.

13 (2) “Relative” means an adult who is related to the child by
14 blood, adoption, or affinity within the fifth degree of kinship,
15 including stepparents, stepsiblings, and all relatives whose status
16 is preceded by the words “great,” “great-great,” or “grand,” or the
17 spouse of any of these persons even if the marriage was terminated
18 by death or dissolution. However, only the following relatives
19 shall be given preferential consideration for the placement of the
20 child: an adult who is a grandparent, aunt, uncle, or sibling.

21 (d) Subsequent to the hearing conducted pursuant to Section
22 ~~358, whenever a new placement of the child must be made, 358~~
23 *and throughout the reunification period*, consideration for
24 placement shall again be given as described in this section to
25 relatives who have not been found to be unsuitable and who will
26 fulfill the child’s reunification or permanent plan requirements. In
27 addition to the factors described in subdivision (a), the county
28 social worker shall consider whether the relative has established
29 and maintained a relationship with the child.

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

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

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

1 (A) The child was previously a dependent of the court.

2 (B) The child was previously adopted and the adoption has been
3 disrupted, set aside pursuant to Section 9100 or 9102 of the Family
4 Code, or the child has been released into the custody of the
5 department or a licensed adoption agency by the adoptive parent
6 or parents.

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

11 (A) No appropriate potential caretaker is known to exist from
12 the child’s adoptive family, including nonrelated extended family
13 members of the adoptive family.

14 (B) The child was not the subject of a voluntary relinquishment
15 by the birth parents pursuant to Section 8700 of the Family Code
16 or Section 1255.7 of the Health and Safety Code.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.