

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 381

Introduced by Assembly Member Calderon

February 18, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 381, as amended, Calderon. Dependent children: placement.

Existing law, in cases in which a minor is ~~adjudged~~ *alleged to be* a dependent child of the court on the ground that the minor has suffered abuse or neglect, allows the court to take the child from the physical custody of his or her parents or guardian if there would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, among other criteria. If a child is removed from the physical custody of his or her parents, existing law requires preferential consideration to be given to a request by a relative of the child for placement of the child with the relative. Existing law requires that the best interest of the child be considered, among other specified factors, in making that determination. *Existing law also requires that, subsequent to the hearing on the proper disposition to be made of the child, whenever a new placement of the child must be made, consideration for placement again be given to relatives who have not been found to be unsuitable, as specified.*

~~This bill would state the intent of the Legislature to enact legislation to ensure the best possible outcome for children removed from the physical custody of his or her parents; require the county social worker and the court, when determining whether placement with a relative is~~

appropriate, to consider the above-described factors on a case-by-case basis. The bill also would require that consideration for placement with a relative subsequent to the disposition hearing be given without regard to whether a new placement of a child must be made, and would direct the social worker to report and the court to consider additional enumerated factors in making this determination. By increasing the duties of county social workers, this bill would create a state-mandated local program. The bill would also require the Judicial Council to adopt a rule of court on or before January 1, 2017, that implements these provisions.

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 no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 361.3 of the Welfare and Institutions Code
- 2 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, *on a case-by-case basis*, consider, but shall not be
- 10 limited to, ~~consideration~~ 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 unless that placement is found to be contrary to the safety and
- 19 well-being of any of the siblings, as provided in Section 16002.

1 (5) The good moral character of the relative and any other adult
2 living in the home, including whether any individual residing in
3 the home has a prior history of violent criminal acts or has been
4 responsible for acts of child abuse or neglect.

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

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

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

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

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

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

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

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

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

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

17 However, any finding made with respect to the factor considered
18 pursuant to this subparagraph and pursuant to subparagraph (G)
19 shall not be the sole basis for precluding preferential placement
20 with a relative.

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

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

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

1 study prepared pursuant to Section 358.1. The court shall authorize
2 the county social worker, while assessing these relatives for the
3 possibility of placement, to disclose to the relative, as appropriate,
4 the fact that the child is in custody, the alleged reasons for the
5 custody, and the projected likely date for the child's return home
6 or placement for adoption or legal guardianship. However, this
7 investigation shall not be construed as good cause for continuance
8 of the dispositional hearing conducted pursuant to Section 358.

9 (b) In any case in which more than one appropriate relative
10 requests preferential consideration pursuant to this section, each
11 relative shall be considered under the factors enumerated in
12 subdivision (a). Consistent with the legislative intent for children
13 to be placed immediately with a responsible relative, this section
14 does not limit the county social worker's ability to place a child
15 in the home of an appropriate relative or a nonrelative extended
16 family member pending the consideration of other relatives who
17 have requested preferential consideration.

18 (c) For purposes of this section:

19 (1) "Preferential consideration" means that the relative seeking
20 placement shall be the first placement to be considered and
21 investigated.

22 (2) "Relative" means an adult who is related to the child by
23 blood, adoption, or affinity within the fifth degree of kinship,
24 including stepparents, stepsiblings, and all relatives whose status
25 is preceded by the words "great," "great-great," or "grand," or the
26 spouse of any of these persons even if the marriage was terminated
27 by death or dissolution. However, only the following relatives
28 shall be given preferential consideration for the placement of the
29 child: an adult who is a grandparent, aunt, uncle, or sibling.

30 (d) (1) Subsequent to the hearing conducted pursuant to Section
31 358, ~~whenever a new placement of the child must be made,~~
32 consideration for placement shall again be given as described in
33 this section to relatives who have not been found to be unsuitable
34 and who will fulfill the child's reunification or permanent plan
35 requirements. In addition to the factors described in subdivision
36 (a), the county social worker shall *report and the court shall*
37 *consider whether all of the following factors:*

38 (A) *Whether* the relative has established and maintained a
39 ~~relationship with the child.~~ *child or is able and willing to do so.*

1 (B) *The length of time the child has been in his or her current*
2 *placement.*

3 (C) *The relationship of the child with the current caregiver.*

4 (D) *The child's progress toward permanency with that*
5 *caregiver.*

6 (E) *The placement preference of the child.*

7 (2) *The Judicial Council shall adopt a rule of court on or before*
8 *January 1, 2017, that implements this subdivision in regard to the*
9 *consideration of relatives for placement subsequent to the hearing*
10 *conducted pursuant to Section 358.*

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

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

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

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

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

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

32 (A) *No appropriate potential caretaker is known to exist from*
33 *the child's adoptive family, including nonrelated extended family*
34 *members of the adoptive family.*

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

38 *SEC. 2. To the extent that this act has an overall effect of*
39 *increasing the costs already borne by a local agency for programs*
40 *or levels of service mandated by the 2011 Realignment Legislation*

1 *within the meaning of Section 36 of Article XIII of the California*
2 *Constitution, it shall apply to local agencies only to the extent that*
3 *the state provides annual funding for the cost increase. Any new*
4 *program or higher level of service provided by a local agency*
5 *pursuant to this act above the level for which funding has been*
6 *provided shall not require a subvention of funds by the state nor*
7 *otherwise be subject to Section 6 of Article XIII B of the California*
8 *Constitution.*

9 ~~SECTION 1. It is the intent of the Legislature to enact~~
10 ~~legislation to ensure the best possible outcome for children~~
11 ~~removed from the physical custody of his or her parents.~~