

AMENDED IN SENATE APRIL 19, 2016

SENATE BILL

No. 1060

Introduced by Senator Leno

(Coauthors: Senators Allen and McGuire)

*(Coauthors: Assembly Members Brown, Chiu, Chu, Linder, Lopez,
McCarty, and Williams)*

February 16, 2016

An act to amend Sections 366.29 and 727.3 of the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1060, as amended, Leno. Postadoption contact: siblings of dependent children.

Existing law authorizes a juvenile court, under certain conditions, to terminate the rights of a parent or parents of a child and order that the child be placed for adoption, if the child is adjudged a dependent child of the court based on a finding that the child has suffered, or there is a substantial risk that the child will suffer, specified harm or abuse. Existing law provides for the creation of a child and family team, which may include family members, certain professionals, or other individuals, who are convened by the county placing agency to provide input regarding the placement of, and services to, a dependent child, as part of his or her case plan within child welfare services. Existing law authorizes the court, in an adoption proceeding for the dependent child, with the consent of the prospective adoptive parent or parents of the child, to include in the final adoption order provisions for the adoptive parent or parents to facilitate postadoptive contact between the child and his or her sibling, as specified.

This bill would require a court, in an adoption proceeding for a dependent child, to order the convening of a child and family team ~~meeting~~, *meeting regarding postadoptive contact with the siblings of the child, unless the court finds that such a meeting may be detrimental to the child. The bill would require the meeting to be* attended by at least a facilitator, the siblings or their respective caregivers, as specified, and the prospective adoptive parent or parents. The bill would require the participants of the meeting to decide whether to voluntarily enter into a postadoptive sibling contact agreement, as specified, before the adoption is finalized. By requiring new duties of local county officials, this bill would impose a state-mandated local program.

Existing law requires a juvenile court, in the case of a minor declared a ward and ordered to be placed in foster care, and where the minor has continuing involvement with his or her parents or legal guardians, to include in its order placing the minor in a permanent placement a specification of the nature and frequency of visiting arrangements with the parents or legal guardians.

This bill would expand this provision to also apply to visiting arrangements with siblings of the minor.

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: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 366.29 of the Welfare and Institutions
2 Code is amended to read:
3 366.29. (a) When a court, pursuant to Section 366.26, orders
4 that a dependent child be placed for adoption, nothing in the
5 adoption laws of this state shall be construed to prevent the
6 prospective adoptive parent or parents of the child from expressing
7 a willingness to facilitate postadoptive sibling contact. With the
8 consent of the adoptive parent or parents, the court may include
9 in the final adoption order provisions for the adoptive parent or
10 parents to facilitate postadoptive sibling contact. In no event shall
11 the continuing validity of the adoption be contingent upon the

1 postadoptive contact, nor shall the ability of the adoptive parent
2 or parents and the child to change residence within or outside the
3 state be impaired by the order for contact.

4 (b) ~~The~~ *Unless the court finds that such a meeting may be*
5 *detrimental to the child, the court shall order the convening of a*
6 *meeting of a child and family team, as defined in subdivision (a)*
7 *of Section 16501, regarding postadoptive contact with the siblings*
8 *of the child, including, but not limited to, siblings under the court's*
9 *jurisdiction. A sibling 12 years of age or older may represent*
10 *himself or herself at the meeting. A sibling under 12 years of age*
11 *shall be represented by his or her caregiver. The meeting shall be*
12 *attended by at least a facilitator, the siblings or their respective*
13 *caregivers on the basis of age, and the prospective adoptive parent*
14 *or parents. The participants of the meeting shall decide whether*
15 *to voluntarily enter into a postadoptive sibling contact agreement,*
16 *pursuant to this section and Section 8616.5 of the Family Code,*
17 *before the adoption is finalized.*

18 (c) If, following entry of an order for sibling contact pursuant
19 to subdivision (a), it is determined by the adoptive parent or parents
20 that sibling contact poses a threat to the health, safety, or well-being
21 of the adopted child, the adoptive parent or parents may terminate
22 the sibling contact, provided that the adoptive parent or parents
23 shall submit written notification to the court within 10 days after
24 terminating the contact, which notification shall specify to the
25 court the reasons why the health, safety, or well-being of the
26 adopted child would be threatened by continued sibling contact.

27 (d) Upon the granting of the adoption petition and the issuing
28 of the order of adoption of a child who is a dependent of the
29 juvenile court, the jurisdiction of the juvenile court with respect
30 to the dependency proceedings of that child shall be terminated.
31 Nonetheless, the court granting the petition of adoption shall
32 maintain jurisdiction over the child for enforcement of the
33 postadoption contact agreement. The court may only order
34 compliance with the postadoption contact agreement upon a finding
35 of both of the following:

36 (1) The party seeking the enforcement participated, in good
37 faith, in mediation or other appropriate alternative dispute
38 resolution proceedings regarding the conflict, prior to the filing of
39 the enforcement action.

40 (2) The enforcement is in the best interest of the child.

1 SEC. 2. Section 727.3 of the Welfare and Institutions Code is
2 amended to read:

3 727.3. The purpose of this section is to provide a means to
4 monitor the safety and well-being of every minor in foster care
5 who has been declared a ward of the juvenile court pursuant to
6 Section 601 or 602 and to ensure that everything reasonably
7 possible is done to facilitate the safe and early return of the minor
8 to his or her own home or to establish an alternative permanent
9 plan for the minor.

10 (a) (1) For every minor declared a ward and ordered to be
11 placed in foster care, a permanency planning hearing shall be
12 conducted within 12 months of the date the minor entered foster
13 care, as defined in paragraph (4) of subdivision (d) of Section
14 727.4. Subsequent permanency planning hearings shall be
15 conducted periodically, but no less frequently than once every 12
16 months thereafter during the period of placement. It shall be the
17 duty of the probation officer to prepare a written social study report
18 including an updated case plan and a recommendation for a
19 permanent plan, pursuant to subdivision (c) of Section 706.5, and
20 submit the report to the court prior to each permanency planning
21 hearing, pursuant to subdivision (b) of Section 727.4.

22 (2) Prior to any permanency planning hearing involving a minor
23 in the physical custody of a community care facility or foster family
24 agency, the facility or agency may file with the court a report
25 containing its recommendations, in addition to the probation
26 officer's social study. Prior to any permanency planning hearing
27 involving the physical custody of a foster parent, relative caregiver,
28 preadoptive parent, or legal guardian, that person may present to
29 the court a report containing his or her recommendations. The
30 court shall consider all reports and recommendations filed pursuant
31 to this subdivision.

32 (3) If the minor has a continuing involvement with his or her
33 parents or legal guardians, the parents or legal guardians shall be
34 involved in the planning for a permanent placement. The court
35 order placing the minor in a permanent placement shall include a
36 specification of the nature and frequency of visiting arrangements
37 with the ~~parents, legal guardians, or parents or legal guardians~~
38 *and, if any, the siblings.*

39 (4) At each permanency planning hearing, the court shall order
40 a permanent plan for the minor, as described in subdivision (b).

1 The court shall also make findings, as described in subdivision (e)
2 of Section 727.2. In the case of a minor who has reached 16 years
3 of age or older, the court shall, in addition, determine the services
4 needed to assist the minor to make the transition from foster care
5 to successful adulthood. The court shall make all of these
6 determinations on a case-by-case basis and make reference to the
7 probation officer's report, the case plan, or other evidence relied
8 upon in making its decisions.

9 (5) When the minor is 16 years of age or older, and is in another
10 planned permanent living arrangement, the court, at each
11 permanency planning hearing, shall do all of the following:

12 (A) Ask the minor about his or her desired permanency outcome.

13 (B) Make a judicial determination explaining why, as of the
14 hearing date, another planned permanent living arrangement is the
15 best permanency plan for the minor.

16 (C) State for the record the compelling reason or reasons why
17 it continues not to be in the best interest of the minor to return
18 home, be placed for adoption, be placed with a legal guardian, or
19 be placed with a fit and willing relative.

20 (b) At all permanency planning hearings, the court shall
21 determine the permanent plan for the minor. The court shall order
22 one of the following permanent plans, ~~which are~~, in order of
23 priority:

24 (1) Return of the minor to the physical custody of the parent or
25 legal guardian. After considering the admissible and relevant
26 evidence, the court shall order the return of the minor to the
27 physical custody of his or her parent or legal guardian unless:

28 (A) Reunification services were not offered, pursuant to
29 subdivision (b) of Section 727.2.

30 (B) The court finds, by a preponderance of the evidence, that
31 the return of the minor to his or her parent or legal guardian would
32 create a substantial risk of detriment to the safety, protection, or
33 physical or emotional well-being of the minor. The probation
34 department shall have the burden of establishing that detriment.
35 In making its determination, the court shall review and consider
36 the social study report and recommendations pursuant to Section
37 706.5, the report and recommendations of any child advocate
38 appointed for the minor in the case, and any other reports submitted
39 pursuant to paragraph (2) of subdivision (a), and shall consider
40 the efforts or progress, or both, demonstrated by the minor and

1 family and the extent to which the minor availed himself or herself
2 of the services provided.

3 (2) Order that the permanent plan for the minor will be to return
4 the minor to the physical custody of the parent or legal guardian,
5 order further reunification services to be provided to the minor
6 and his or her parent or legal guardian for a period not to exceed
7 six months and continue the case for up to six months for a
8 subsequent permanency planning hearing, provided that the
9 subsequent hearing shall occur within 18 months of the date the
10 minor was originally taken from the physical custody of his or her
11 parent or legal guardian. The court shall continue the case only if
12 it finds that there is a substantial probability that the minor will be
13 returned to the physical custody of his or her parent or legal
14 guardian and safely maintained in the home within the extended
15 period of time or that reasonable services have not been provided
16 to the parent or guardian. For purposes of this section, in order to
17 find that there is a substantial probability that the minor will be
18 returned to the physical custody of his or her parent or legal
19 guardian, the court shall be required to find that the minor and his
20 or her parent or legal guardian have demonstrated the capacity and
21 ability to complete the objectives of the case plan.

22 The court shall inform the parent or legal guardian that if the
23 minor cannot be returned home by the next permanency planning
24 hearing, a proceeding pursuant to Section 727.31 may be initiated.

25 The court shall not continue the case for further reunification
26 services if it has been 18 months or more since the date the minor
27 was originally taken from the physical custody of his or her parent
28 or legal guardian.

29 (3) Identify adoption as the permanent plan and order that a
30 hearing be held within 120 days, pursuant to the procedures
31 described in Section 727.31. The court shall only set a hearing
32 pursuant to Section 727.31 if there is clear and convincing evidence
33 that reasonable services have been provided or offered to the
34 parents. When the court sets a hearing pursuant to Section 727.31,
35 it shall order that an adoption assessment report be prepared,
36 pursuant to subdivision (b) of Section 727.31.

37 (4) Order a legal guardianship, pursuant to procedures described
38 in subdivisions (c) to (f), inclusive, of Section 728.

39 (5) Place the minor with a fit and willing relative. “Placement
40 with a fit and willing relative” means placing the minor with an

1 appropriate approved relative who is willing to provide a permanent
2 and stable home for the minor, but is unable or unwilling to become
3 the legal guardian. When a minor is placed with a fit and willing
4 relative, the court may authorize the relative to provide the same
5 legal consent for the minor’s medical, surgical, and dental care,
6 and education as the custodial parent of the minor.

7 (6) (A) If he or she is 16 years of age or older, place the minor
8 in another planned permanent living arrangement. For purposes
9 of this section, “planned permanent living arrangement” means
10 any permanent living arrangement described in Section 11402 that
11 is ordered by the court for a minor 16 years of age or older when
12 there is a compelling reason or reasons to determine that it is not
13 in the best interest of the minor to have any permanent plan listed
14 in paragraphs (1) to (5), inclusive. These plans include, but are not
15 limited to, placement in a specific, identified foster family home,
16 program, or facility on a permanent basis, or placement in a
17 transitional housing placement facility. When the court places a
18 minor in a planned permanent living arrangement, the court shall
19 specify the goal of the placement, which may include, but shall
20 not be limited to, return home, emancipation, guardianship, or
21 permanent placement with a relative.

22 The court shall only order that the minor remain in a planned
23 permanent living arrangement if the court finds by clear and
24 convincing evidence, based upon the evidence already presented
25 to ~~it~~ *it*, that there is a compelling reason, as defined in subdivision
26 (c), for determining that a plan of termination of parental rights
27 and adoption is not in the best interest of the minor.

28 (B) If the minor is under 16 years of age and the court finds by
29 clear and convincing evidence, based upon the evidence already
30 presented to it, that there is a compelling reason, as defined in
31 subdivision (c), for determining that a plan of termination of
32 parental rights and adoption is not in the best interest of the minor
33 as of the hearing date, the court shall order the minor to remain in
34 a foster care placement with a permanent plan of return home,
35 adoption, legal guardianship, or placement with a fit and willing
36 relative, as appropriate. The court shall make factual findings
37 identifying any barriers to achieving the permanent plan as of the
38 hearing date.

1 (c) A compelling reason for determining that a plan of
2 termination of parental rights and adoption is not in the best interest
3 of the minor is any of the following:

4 (1) Documentation by the probation department that adoption
5 is not in the best interest of the minor and is not an appropriate
6 permanency goal. That documentation may include, but is not
7 limited to, documentation that:

8 (A) The minor is 12 years of age or older and objects to
9 termination of parental rights.

10 (B) The minor is 17 years of age or older and specifically
11 requests that transition to independent living with the identification
12 of a caring adult to serve as a lifelong connection be established
13 as his or her permanent plan. On and after January 1, 2012, this
14 includes a minor who requests that his or her transitional
15 independent living case plan include modification of his or her
16 jurisdiction to that of dependency jurisdiction pursuant to
17 subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2,
18 or to that of transition jurisdiction pursuant to Section 450, in order
19 to be eligible as a nonminor dependent for the extended benefits
20 pursuant to Section 11403.

21 (C) The parent or guardian and the minor have a significant
22 bond, but the parent or guardian is unable to care for the minor
23 because of an emotional or physical disability, and the minor's
24 caregiver has committed to raising the minor to the age of majority
25 and facilitating visitation with the disabled parent or guardian.

26 (D) The minor agrees to continued placement in a residential
27 treatment facility that provides services specifically designed to
28 address the minor's treatment needs, and the minor's needs could
29 not be served by a less restrictive placement.

30 The probation department's recommendation that adoption is
31 not in the best interest of the minor shall be based on the present
32 family circumstances of the minor and shall not preclude a different
33 recommendation at a later date if the minor's family circumstances
34 change.

35 (2) Documentation by the probation department that no grounds
36 exist to file for termination of parental rights.

37 (3) Documentation by the probation department that the minor
38 is an unaccompanied refugee minor, or there are international legal
39 obligations or foreign policy reasons that would preclude
40 terminating parental rights.

1 (4) A finding by the court that the probation department was
2 required to make reasonable efforts to reunify the minor with the
3 family pursuant to subdivision (a) of Section 727.2, and did not
4 make those efforts.

5 (5) Documentation by the probation department that the minor
6 is living with a relative who is unable or unwilling to adopt the
7 minor because of exceptional circumstances that do not include
8 an unwillingness to accept legal or financial responsibility for the
9 minor, but who is willing *to provide*, and capable of ~~providing~~
10 *providing*, the minor with a stable and permanent home
11 environment, and the removal of the minor from the physical
12 custody of his or her relative would be detrimental to the minor's
13 emotional well-being.

14 (d) Nothing in this section shall be construed to limit the ability
15 of a parent to voluntarily relinquish his or her child to the State
16 Department of Social Services when it is acting as an adoption
17 agency or to a county adoption agency at any time while the minor
18 is a ward of the juvenile court if the department or county adoption
19 agency is willing to accept the relinquishment.

20 (e) Any change in the permanent plan of a minor placed with a
21 fit and willing relative or in a planned permanent living
22 arrangement shall be made only by order of the court pursuant to
23 a *petition filed in accordance with Section 778* ~~petition~~ or at a
24 regularly scheduled and noticed status review hearing or
25 permanency planning hearing. Any change in the permanent plan
26 of a minor placed in a guardianship shall be made only by order
27 of the court pursuant to a motion filed in accordance with Section
28 728.

29 SEC. 3. To the extent that this act has an overall effect of
30 increasing the costs already borne by a local agency for programs
31 or levels of service mandated by the 2011 Realignment Legislation
32 within the meaning of Section 36 of Article XIII of the California
33 Constitution, it shall apply to local agencies only to the extent that
34 the state provides annual funding for the cost increase. Any new
35 program or higher level of service provided by a local agency
36 pursuant to this act above the level for which funding has been
37 provided shall not require a subvention of funds by the state nor

- 1 otherwise be subject to Section 6 of Article XIII B of the California
- 2 Constitution.

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