

AMENDED IN SENATE APRIL 14, 2016  
AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1336**

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**Introduced by Senator Jackson**

February 19, 2016

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An act to amend Sections 358 and 361.3 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1336, as amended, Jackson. Dependent children: placement with relatives.

Existing law requires a county social worker to investigate the circumstances of each child taken into temporary custody by a peace officer who has reasonable cause to believe the child is the victim of abuse or neglect. Existing law requires the social worker to conduct an investigation to identify and locate adult relatives of the child and to provide him or her with a specified relative information form. Existing law further requires the social worker to initiate an assessment of the suitability of a relative who requests that the child be placed with him or her.

Under existing law, the juvenile court is required to hold a hearing to determine the proper disposition to be made of a child adjudged a dependent of the juvenile court. Existing law requires the court to consider the social study of the child made by the social worker before the court arrives at its judgment. Existing law requires that, subsequent to the hearing, consideration for placement be given to relatives, as specified.

This bill would require the juvenile court to ~~consider~~ *make a finding as to* whether the social worker exercised due diligence in conducting

his or her investigation to identify, locate, and notify the child's relatives. ~~The bill would require the court to continue the disposition hearing if the social worker did not exercise due diligence.~~ The bill would state the intent of the Legislature to clarify, if a child is receiving reunification services and a relative identifies himself or herself to a county child welfare agency, that the relative be evaluated by the county child welfare agency and a recommendation be made to the court as to whether the relative should or should not be considered for 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. It is the intent of the Legislature in amending  
2 Section 361.3 of the Welfare and Institutions Code to clarify, if a  
3 child is receiving reunification services and a relative identifies  
4 himself or herself to a county child welfare agency, that the relative  
5 be evaluated by the county child welfare agency and a  
6 recommendation be made to the court as to whether the relative  
7 should or should not be considered for placement.

8 SEC. 2. Section 358 of the Welfare and Institutions Code is  
9 amended to read:

10 358. (a) After finding that a child is a person described in  
11 Section 300, the court shall hear evidence on the question of the  
12 proper disposition to be made of the child. Prior to making a  
13 finding required by this section, the court may continue the hearing  
14 on its own motion, the motion of the parent or guardian, or the  
15 motion of the child, as follows:

16 (1) If the child is detained during the continuance, and the social  
17 worker is not alleging that subdivision (b) of Section 361.5 is  
18 applicable, the continuance shall not exceed 10 judicial days. The  
19 court may make an order for detention of the child or for the child's  
20 release from detention, during the period of continuance, as is  
21 appropriate.

22 (2) If the child is not detained during the continuance, the  
23 continuance shall not exceed 30 days after the date of the finding  
24 pursuant to Section 356. However, the court may, for cause,  
25 continue the hearing for an additional 15 days.

26 (3) If the social worker is alleging that subdivision (b) of Section  
27 361.5 is applicable, the court shall continue the proceedings for a

1 period not to exceed 30 days. The social worker shall notify each  
2 parent of the content of subdivision (b) of Section 361.5 and shall  
3 inform each parent that if the court does not order reunification a  
4 permanency planning hearing will be held, and that his or her  
5 parental rights may be terminated within the timeframes specified  
6 by law.

7 (b) Before determining the appropriate disposition, the court  
8 shall receive in evidence the social study of the child made by the  
9 social worker, any study or evaluation made by a child advocate  
10 appointed by the court, and other relevant and material evidence  
11 as may be offered, including, but not limited to, the willingness  
12 of the caregiver to provide legal permanency for the child if  
13 reunification is unsuccessful. In any judgment and order of  
14 disposition, the court shall specifically state that the social study  
15 made by the social worker and the study or evaluation made by  
16 the child advocate appointed by the court, if there be any, has been  
17 read and considered by the court in arriving at its judgment and  
18 order of disposition. Any social study or report submitted to the  
19 court by the social worker shall include the individual child's case  
20 plan developed pursuant to Section 16501.1.

21 (1) ~~If the~~ *Whenever a child is removed from the a parent's or*  
22 *guardian's custody, the court shall consider whether make a finding*  
23 *as to whether the social worker has exercised due diligence in*  
24 *conducting the investigation investigation, as required pursuant*  
25 *to paragraph (1) of subdivision (e) of Section 309, to identify,*  
26 *locate, and notify the child's relatives: relatives, including both*  
27 *maternal and paternal relatives.*

28 (2) When making the determination required pursuant to  
29 paragraph (1), the court may consider, among other examples of  
30 due diligence, ~~whether~~ *the extent to which the social worker has*  
31 *complied with paragraph (1) of subdivision (e) of Section 309, and*  
32 *has done any of the following:*

33 (A) Asked the child, in an age-appropriate manner and consistent  
34 with the child's best interest, about his or her relatives.

35 (B) Obtained information regarding the location of the child's  
36 relatives.

37 (C) Reviewed the child's case file for any information regarding  
38 the child's relatives.

39 (D) Telephoned, emailed, or visited all identified relatives.

1 (E) Asked located relatives for the names and locations of other  
2 relatives.

3 (F) Used Internet search tools to locate relatives identified as  
4 supports.

5 ~~(3) The court shall continue the disposition hearing if the court  
6 finds that the social worker has failed to exercise due diligence in  
7 finding the child's relatives to allow time for due diligence to be  
8 exercised.~~

9 (c) If the court finds that a child is described by subdivision (h)  
10 of Section 300 or that subdivision (b) of Section 361.5 may be  
11 applicable, the court shall conduct the dispositional proceeding  
12 pursuant to subdivision (c) of Section 361.5.

13 SEC. 3. Section 361.3 of the Welfare and Institutions Code is  
14 amended to read:

15 361.3. (a) In any case in which a child is removed from the  
16 physical custody of his or her parents pursuant to Section 361,  
17 preferential consideration shall be given to a request by a relative  
18 of the child for placement of the child with the relative, regardless  
19 of the relative's immigration status. In determining whether  
20 placement with a relative is appropriate, the county social worker  
21 and court shall consider, but shall not be limited to, consideration  
22 of all the following factors:

23 (1) The best interest of the child, including special physical,  
24 psychological, educational, medical, or emotional needs.

25 (2) The wishes of the parent, the relative, and child, if  
26 appropriate.

27 (3) The provisions of Part 6 (commencing with Section 7950)  
28 of Division 12 of the Family Code regarding relative placement.

29 (4) Placement of siblings and half siblings in the same home,  
30 unless that placement is found to be contrary to the safety and  
31 well-being of any of the siblings, as provided in Section 16002.

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

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

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

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

- 1 (B) Exercise proper and effective care and control of the child.
- 2 (C) Provide a home and the necessities of life for the child.
- 3 (D) Protect the child from his or her parents.
- 4 (E) Facilitate court-ordered reunification efforts with the parents.
- 5 (F) Facilitate visitation with the child's other relatives.
- 6 (G) Facilitate implementation of all elements of the case plan.
- 7 (H) Provide legal permanence for the child if reunification fails.

8 However, any finding made with respect to the factor considered  
9 pursuant to this subparagraph and pursuant to subparagraph (G)  
10 shall not be the sole basis for precluding preferential placement  
11 with a relative.

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

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

17 In this regard, the Legislature declares that a physical disability,  
18 such as blindness or deafness, is no bar to the raising of children,  
19 and a county social worker's determination as to the ability of a  
20 disabled relative to exercise care and control should center upon  
21 whether the relative's disability prevents him or her from exercising  
22 care and control. The court shall order the parent to disclose to the  
23 county social worker the names, residences, and any other known  
24 identifying information of any maternal or paternal relatives of  
25 the child. This inquiry shall not be construed, however, to guarantee  
26 that the child will be placed with any person so identified. The  
27 county social worker shall initially contact the relatives given  
28 preferential consideration for placement to determine if they desire  
29 the child to be placed with them. Those desiring placement shall  
30 be assessed according to the factors enumerated in this subdivision.  
31 The county social worker shall document these efforts in the social  
32 study prepared pursuant to Section 358.1. The court shall authorize  
33 the county social worker, while assessing these relatives for the  
34 possibility of placement, to disclose to the relative, as appropriate,  
35 the fact that the child is in custody, the alleged reasons for the  
36 custody, and the projected likely date for the child's return home  
37 or placement for adoption or legal guardianship. However, this  
38 investigation shall not be construed as good cause for continuance  
39 of the dispositional hearing conducted pursuant to Section 358.

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

10 (c) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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