

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 4, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE APRIL 14, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1336

Introduced by Senator Jackson

February 19, 2016

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 again be given to relatives whenever a new placement of the child must be made. Existing case law generally provides that the relative placement preference applies throughout the reunification period, and that a social worker is required to make an assessment of a relative who requests to be considered for placement at any time during that period.

This bill would require the juvenile court to 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 ~~codify procedures that apply under existing law, as interpreted by case law, require the county, whenever a relative identifies himself or herself to the county during the reunification period for purposes of placement with that relative and the making of the assessment by the county, as specified:~~ *county, to inform the court and all parties to the case that the relative has come forward and requested placement of the child.*

This bill would incorporate changes to Section 361.3 of the Welfare and Institutions Code proposed by both this bill and AB 1997, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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 358 of the Welfare and Institutions Code
2 is amended to read:
3 358. (a) After finding that a child is a person described in
4 Section 300, the court shall hear evidence on the question of the
5 proper disposition to be made of the child. Prior to making a
6 finding required by this section, the court may continue the hearing
7 on its own motion, the motion of the parent or guardian, or the
8 motion of the child, as follows:
9 (1) If the child is detained during the continuance, and the social
10 worker is not alleging that subdivision (b) of Section 361.5 is
11 applicable, the continuance shall not exceed 10 judicial days. The
12 court may make an order for detention of the child or for the child's
13 release from detention, during the period of continuance, as is
14 appropriate.

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

5 (3) If the social worker is alleging that subdivision (b) of Section
6 361.5 is applicable, the court shall continue the proceedings for a
7 period not to exceed 30 days. The social worker shall notify each
8 parent of the content of subdivision (b) of Section 361.5 and shall
9 inform each parent that if the court does not order reunification a
10 permanency planning hearing will be held, and that his or her
11 parental rights may be terminated within the timeframes specified
12 by law.

13 (b) (1) Before determining the appropriate disposition, the court
14 shall receive in evidence the social study of the child made by the
15 social worker, any study or evaluation made by a child advocate
16 appointed by the court, and other relevant and material evidence
17 as may be offered, including, but not limited to, the willingness
18 of the caregiver to provide legal permanency for the child if
19 reunification is unsuccessful. In any judgment and order of
20 disposition, the court shall specifically state that the social study
21 made by the social worker and the study or evaluation made by
22 the child advocate appointed by the court, if there be any, has been
23 read and considered by the court in arriving at its judgment and
24 order of disposition. Any social study or report submitted to the
25 court by the social worker shall include the individual child's case
26 plan developed pursuant to Section 16501.1.

27 (2) Whenever a child is removed from a parent's or guardian's
28 custody, the court shall make a finding as to whether the social
29 worker has exercised due diligence in conducting the investigation,
30 as required pursuant to paragraph (1) of subdivision (e) of Section
31 309, to identify, locate, and notify the child's relatives, including
32 both maternal and paternal relatives.

33 (3) When making the determination required pursuant to
34 paragraph (2), the court may consider, among other examples of
35 due diligence, the extent to which the social worker has complied
36 with paragraph (1) of subdivision (e) of Section 309, and has done
37 any of the following:

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

1 (B) Obtained information regarding the location of the child's
2 relatives.

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

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

6 (E) Asked located relatives for the names and locations of other
7 relatives.

8 (F) Used Internet search tools to locate relatives identified as
9 supports.

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

14 SEC. 2. Section 361.3 of the Welfare and Institutions Code is
15 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~(2) (A) Whenever a relative identifies himself or herself to the~~
31 ~~county subsequent to the hearing conducted pursuant to Section~~
32 ~~358 and during the provision of reunification services, and the~~
33 ~~county is not otherwise considering a change of placement, the~~
34 ~~county shall, within 14 calendar days, determine whether it is in~~
35 ~~the best interest of the child to assess and consider the relative for~~
36 ~~placement and shall inform the court, the relative, and all parties~~
37 ~~to the case of its decision, including the reasons for its decision.~~
38 ~~In its determination of whether it is in the best interest of the child~~
39 ~~to assess the relative, the county shall take into account all known~~

1 relevant factors of the case. This initial determination shall not
2 require an assessment of the relative.

3 (B) If the county does not assess the relative for placement, at
4 the request of the child, the court shall set the matter for hearing
5 and may order the agency to assess the relative for placement
6 according to the factors described in subdivision (a) and
7 recommend to the court whether the child should be placed with
8 the relative. If the court does not order the county to assess the
9 relative, it shall state the reasons for the decision in writing or on
10 the record.

11 (C) If the county does not assess the relative for placement, at
12 the request of a party to the case or on its own motion, the court
13 may set the matter for hearing and may order the agency to assess
14 the relative according to the factors described in subdivision (a)
15 and recommend to the court whether the child should be placed
16 with the relative. If the court does not order the county to assess
17 the relative, it shall state the reasons for the decision in writing or
18 on the record.

19 (D) Pursuant to Section 388, a relative may request the court to
20 order the county to assess the relative for placement of the child.
21 The court may set the matter for hearing and may order the agency
22 to assess the relative for placement according to the factors
23 described in subdivision (a) and recommend to the court whether
24 the child should be placed with the relative. If the court does not
25 set the matter for hearing, the court shall state its reasons for the
26 denial in writing or on the record.

27 (e) *Whenever a relative identifies himself or herself to the*
28 *county, the county, shall inform the court and all parties to the*
29 *case that the relative has come forward and requested placement*
30 *of the child.*

31 (e)

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

36 (f)

37 (g) (1) With respect to a child who satisfies the criteria set forth
38 in paragraph (2), the department and any licensed adoption agency
39 may search for a relative and furnish identifying information

1 relating to the child to that relative if it is believed the child's
2 welfare will be promoted thereby.

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

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

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

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

15 (A) No appropriate potential caretaker is known to exist from
16 the child's adoptive family, including nonrelated extended family
17 members of the adoptive family.

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

21 SEC. 2.5. Section 361.3 of the Welfare and Institutions Code
22 is amended to read:

23 361.3. (a) In any case in which a child is removed from the
24 physical custody of his or her parents pursuant to Section 361,
25 preferential consideration shall be given to a request by a relative
26 of the child for placement of the child with the relative, regardless
27 of the relative's immigration status. In determining whether
28 placement with a relative is appropriate, the county social worker
29 and court shall consider, but shall not be limited to, consideration
30 of all the following factors:

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

33 (2) The wishes of the parent, the relative, and child, if
34 appropriate.

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

37 (4) Placement of siblings and half siblings in the same home,
38 unless that placement is found to be contrary to the safety and
39 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) (i) Provide legal permanence for the child if reunification
17 fails.

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

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

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

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

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

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

21 (c) For purposes of this section:

22 (1) "Preferential consideration" means that the relative seeking
23 placement shall be the first placement to be considered and
24 investigated.

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

33 (d) ~~(1)~~ Subsequent to the hearing conducted pursuant to Section
34 358, whenever a new placement of the child must be made,
35 consideration for placement shall again be given as described in
36 this section to relatives who have not been found to be unsuitable
37 and who will fulfill the child's reunification or permanent plan
38 requirements. In addition to the factors described in subdivision
39 (a), the county social worker shall consider whether the relative
40 has established and maintained a relationship with the child.

1 ~~(2) (A) Whenever a relative identifies himself or herself to the~~
2 ~~county subsequent to the hearing conducted pursuant to Section~~
3 ~~358 and during the provision of reunification services, and the~~
4 ~~county is not otherwise considering a change of placement, the~~
5 ~~county shall, within 14 calendar days, determine whether it is in~~
6 ~~the best interest of the child to assess and consider the relative for~~
7 ~~placement and shall inform the court, the relative, and all parties~~
8 ~~to the case of its decision, including the reasons for its decision.~~
9 ~~In its determination of whether it is in the best interest of the child~~
10 ~~to assess the relative, the county shall take into account all known~~
11 ~~relevant factors of the case. This initial determination shall not~~
12 ~~require an assessment of the relative.~~

13 ~~(B) If the county does not assess the relative for placement, at~~
14 ~~the request of the child, the court shall set the matter for hearing~~
15 ~~and may order the agency to assess the relative for placement~~
16 ~~according to the factors described in subdivision (a) and~~
17 ~~recommend to the court whether the child should be placed with~~
18 ~~the relative. If the court does not order the county to assess the~~
19 ~~relative, it shall state the reasons for the decision in writing or on~~
20 ~~the record.~~

21 ~~(C) If the county does not assess the relative for placement, at~~
22 ~~the request of a party to the case or on its own motion, the court~~
23 ~~may set the matter for hearing and may order the agency to assess~~
24 ~~the relative according to the factors described in subdivision (a)~~
25 ~~and recommend to the court whether the child should be placed~~
26 ~~with the relative. If the court does not order the county to assess~~
27 ~~the relative, it shall state the reasons for the decision in writing or~~
28 ~~on the record.~~

29 ~~(D) Pursuant to Section 388, a relative may request the court to~~
30 ~~order the county to assess the relative for placement of the child.~~
31 ~~The court may set the matter for hearing and may order the agency~~
32 ~~to assess the relative for placement according to the factors~~
33 ~~described in subdivision (a) and recommend to the court whether~~
34 ~~the child should be placed with the relative. If the court does not~~
35 ~~set the matter for hearing, the court shall state its reasons for the~~
36 ~~denial in writing or on the record.~~

37 ~~(e) Whenever a relative identifies himself or herself to the~~
38 ~~county, the county shall inform the court and all parties to the case~~
39 ~~that the relative has come forward and requested placement of the~~
40 ~~child.~~

1 (e)

2 (f) If the court does not place the child with a relative who has
3 been considered for placement pursuant to this section, the court
4 shall state for the record the reasons placement with that relative
5 was denied.

6 (f)

7 (g) (1) With respect to a child who satisfies the criteria set forth
8 in paragraph (2), the department and any licensed adoption agency
9 may search for a relative and furnish identifying information
10 relating to the child to that relative if it is believed the child's
11 welfare will be promoted thereby.

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

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

15 (B) The child was previously adopted and the adoption has been
16 disrupted, set aside pursuant to Section 9100 or 9102 of the Family
17 Code, or the child has been released into the custody of the
18 department or a licensed adoption agency by the adoptive parent
19 or parents.

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

24 (A) No appropriate potential caretaker is known to exist from
25 the child's adoptive family, including nonrelated extended family
26 members of the adoptive family.

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

30 SEC. 3. Section 2.5 of this bill incorporates amendments to
31 Section 361.3 of the Welfare and Institutions Code proposed by
32 both this bill and Assembly Bill 1997. It shall only become
33 operative if (1) both bills are enacted and become effective on or
34 before January 1, 2017, (2) each bill amends Section 361.3 of the
35 Welfare and Institutions Code, and (3) this bill is enacted after
36 Assembly Bill 1997, in which case Section 2 of this bill shall not
37 become operative.

O