

Introduced by Senator Rosenthal

February 3, 1998

An act to amend Sections 319 and 375 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, as introduced, Rosenthal. Juveniles: custody.

Existing law authorizes the juvenile court, in considering the disposition of a case of a child who is removed from the physical custody of his or her parents, to determine whether there is a relative who is willing and able to care for the child. Under existing law, a "relative" is defined as an adult who is related to the child or child's half sibling by blood or affinity, as specified, and preference for placement of the minor is given to an adult who is a grandparent, aunt, uncle, or sibling of the child.

This bill would additionally define a "relative" as an adult related to siblings by blood or affinity, and include an adult related to a sibling among those given preferential treatment regarding placement of the minor.

Existing law authorizes the juvenile court of a county to transfer a case in its entirety to another county under specified circumstances, at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction, provided the county receiving the case is the county in which the person entitled to legal custody of the minor resides. Further, existing law requires the court of the county receiving the juvenile case to take jurisdiction upon

the receipt and filing of the finding of facts and an order transferring the case.

This bill would additionally provide that whenever reunification services are either not provided, as specified, or have been terminated by order of the juvenile court, the entire case may be transferred to the county in which the minor resides if that county is not the same as the county of legal residence for the child when the petition was filed. Under the bill, the county of transfer then would become the child’s new legal residence and the juvenile court of that county would take jurisdiction, as specified.

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 319 of the Welfare and
2 Institutions Code is amended to read:

3 319. At the initial petition hearing the court shall
4 examine the minor’s parents, guardians, or other persons
5 having relevant knowledge and hear the relevant
6 evidence as the minor, the minor’s parents or guardians,
7 the petitioner, or their counsel desires to present. The
8 court may examine the minor, as provided in Section 350.

9 The probation officer shall report to the court on the
10 reasons why the minor has been removed from the
11 parent’s custody; the need, if any, for continued
12 detention; on the available services and the referral
13 methods to those services which could facilitate the
14 return of the minor to the custody of the minor’s parents
15 or guardians; and whether there are any relatives who are
16 able and willing to take temporary custody of the minor.
17 The court shall order the release of the minor from
18 custody unless a prima facie showing has been made that
19 the minor comes within Section 300 and any of the
20 following circumstances exist:

21 (a) There is a substantial danger to the physical health
22 of the minor or the minor is suffering severe emotional
23 damage, and there are no reasonable means by which the
24 minor’s physical or emotional health may be protected



1 without removing the minor from the parents' or
2 guardians' physical custody.

3 (b) There is substantial evidence that a parent,
4 guardian, or custodian of the minor is likely to flee the
5 jurisdiction of the court.

6 (c) The minor has left a placement in which he or she
7 was placed by the juvenile court.

8 (d) The minor indicates an unwillingness to return
9 home, if the minor has been physically or sexually abused
10 by a person residing in the home.

11 The court shall also make a determination on the
12 record as to whether reasonable efforts were made to
13 prevent or eliminate the need for removal of the minor
14 from his or her home, pursuant to subdivision (b) of
15 Section 306, and whether there are available services
16 which would prevent the need for further detention.
17 Services to be considered for purposes of making this
18 determination are case management, counseling,
19 emergency shelter care, emergency in-home caretakers,
20 out-of-home respite care, teaching and demonstrating
21 homemakers, parenting training, transportation, and any
22 other child welfare services authorized by the State
23 Department of Social Services pursuant to Chapter 5
24 (commencing with Section 16500) of Part 4 of Division 9.
25 The court shall also review whether the social worker has
26 considered whether a referral to public assistance
27 services pursuant to Chapter 2 (commencing with
28 Section 11200) of Part 3, Chapter 7 (commencing with
29 Section 14000) of Part 3, Chapter 1 (commencing with
30 Section 17000) of Part 5, and Chapter 10 (commencing
31 with Section 18900) of Part 6, of Division 9 would have
32 eliminated the need to take temporary custody of the
33 minor or would prevent the need for further detention.
34 If the minor can be returned to the custody of his or her
35 parent or guardian through the provision of those
36 services, the court shall place the minor with his or her
37 parent or guardian and order that the services shall be
38 provided. If the minor cannot be returned to the custody
39 of his or her parent or guardian, the court shall determine
40 if there is a relative who is able and willing to care for the



1 child. Where the first contact with the family has
2 occurred during an emergency situation in which the
3 child could not safely remain at home, even with
4 reasonable services being provided, the court shall make
5 a finding that the lack of preplacement preventive efforts
6 were reasonable. Whenever a court orders a minor
7 detained, the court shall state the facts on which the
8 decision is based, shall specify why the initial removal was
9 necessary, and shall order services to be provided as soon
10 as possible to reunify the minor and his or her family if
11 appropriate.

12 When the minor is not released from custody the court
13 may order that the minor shall be placed in the suitable
14 home of a relative or in an emergency shelter or other
15 suitable licensed place or a place exempt from licensure
16 designated by the juvenile court or in an appropriate
17 certified family home whose license is pending and all the
18 prelicense requirements for such a placement have been
19 met as set forth in subdivision (e) of Section 361.2 for a
20 period not to exceed 15 judicial days.

21 As used in this section, “relative” means an adult who
22 is related to the child or child’s half sibling by blood or
23 affinity, *or an adult related to siblings by blood or affinity*,
24 including all relatives whose status is preceded by the
25 words “step,” “great,” “great-great,” or “grand,” or the
26 spouse of any of these persons, even if the marriage was
27 terminated by death or dissolution. However, only the
28 following relatives shall be given preferential
29 consideration for placement of the child: an adult, *or an*
30 *adult related to a sibling*, who is a grandparent, aunt,
31 uncle, or a sibling of the child.

32 The court shall consider the recommendations of the
33 social worker based on the emergency assessment of the
34 relative’s suitability, including the results of a criminal
35 records check and prior child abuse allegations, if any,
36 prior to ordering that the child be placed with a relative.
37 The social worker shall initiate the assessment pursuant
38 to Section 361.3 of any relative to be considered for
39 continuing placement.



1 SEC. 2. Section 375 of the Welfare and Institutions
2 Code is amended to read:

3 375. Whenever a petition is filed in the juvenile court
4 of a county other than the residence of the person named
5 in the petition, or whenever, subsequent to the filing of
6 a petition in the juvenile court of the county where such
7 minor resides, the residence of the person who would be
8 legally entitled to the custody of such minor were it not
9 for the existence of a court order issued pursuant to this
10 chapter is changed to another county, the entire case may
11 be transferred to the juvenile court of the county wherein
12 such person then resides at any time after the court has
13 made a finding of the facts upon which it has exercised its
14 jurisdiction over such minor, and the juvenile court of the
15 county wherein such person then resides shall take
16 jurisdiction of the case upon the receipt and filing with it
17 of such finding of the facts and an order transferring the
18 case.

19 *In all cases where reunification services are not*
20 *provided pursuant to subdivision (b) of Section 361.5, or*
21 *whenever reunification services are terminated by order*
22 *of the juvenile court, the entire case may be transferred*
23 *to the juvenile court of the county wherein the child*
24 *actually resides if other than the county of his or her legal*
25 *residence at the time the petition was filed, and that*
26 *county shall then become the county of his or her legal*
27 *residence and the juvenile court of that county shall take*
28 *jurisdiction of the case upon the receipt and filing with it*
29 *of a finding of the facts and an order transferring the case.*

