

ASSEMBLY BILL

No. 2480

Introduced by Assembly Member Evans

February 23, 2006

An act to amend Section 395 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2480, as introduced, Evans. Dependent children: counsel.

Existing law requires the court to appoint counsel for a child in dependency proceedings at the trial level, unless the court finds that the child would not benefit from the appointment of counsel.

This bill would require the court to appoint counsel for the child in subsequent appellate proceedings unless the court finds that the child would not benefit from the appointment of counsel.

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 395 of the Welfare and Institutions
2 Code is amended to read:
3 395. (a) (1) A judgment in a proceeding under Section 300
4 may be appealed from in the same manner as any final judgment,
5 and any subsequent order may be appealed from as from an order
6 after judgment; but no such order or judgment shall be stayed by
7 the appeal, unless, pending the appeal, suitable provision is made
8 for the maintenance, care, and custody of the person alleged or
9 found to come within the provisions of Section 300, and unless
10 the provision is approved by an order of the juvenile court. The

1 appeal shall have precedence over all other cases in the court to
2 which the appeal is taken.

3 (2) A judgment or subsequent order entered by a referee shall
4 become appealable whenever proceedings pursuant to Section
5 252, 253, or 254 have become completed or, if proceedings
6 pursuant to Section 252, 253, or 254 are not initiated, when the
7 time for initiating the proceedings has expired.

8 (3) An appellant unable to afford counsel, shall be provided a
9 free copy of the transcript in any appeal.

10 (4) The record shall be prepared and transmitted immediately
11 after filing of the notice of appeal, without advance payment of
12 fees. If the appellant is able to afford counsel, the county may
13 seek reimbursement for the cost of the transcripts under
14 subdivision ~~(e)~~ (d) of Section 68511.3 of the Government Code
15 as though the appellant had been granted permission to proceed
16 in forma pauperis.

17 (b) *If a child is not represented by counsel in an appellate*
18 *proceeding, the court shall appoint counsel for the child unless*
19 *the court finds that the child would not benefit from the*
20 *appointment of counsel. The court shall state on the record its*
21 *reasons for that finding. A primary responsibility of any counsel*
22 *appointed to represent a child pursuant to this subdivision shall*
23 *be to advocate for the protection, safety, and physical and*
24 *emotional well being of the child in any appellate proceeding.*
25 *Counsel may not represent another party or county agency*
26 *whose interests conflict with the child's interests.*