

AMENDED IN ASSEMBLY APRIL 23, 2014

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2391

Introduced by Assembly Member Ian Calderon

February 21, 2014

An act to amend Section 361.3 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2391, as amended, Ian Calderon. Dependent children: placement.

Under existing law, a child who is removed from the physical custody of his or her parent or parents in dependency proceedings may be placed with a parent, relative, legal guardian, or other specified persons or in specified placement homes or facilities. Existing law gives preferential consideration to a request by a relative of the dependant child for placement of the child with the relative, as specified. Existing law requires the county social worker and the court to consider certain factors in determining whether placement with a relative is appropriate, including, among others, the best interest of the child and the nature and duration of the relationship between the child and the relative, as specified. Existing law requires that, subsequent to a specified hearing on the proper disposition to be made of the child, whenever a new placement of the child must be made, consideration for placement to again be given to relatives who have not been found to be unsuitable and who will fulfill the child's reunification or permanent plan requirements.

This bill would require *the county social worker and the court, when determining whether placement with a relative is appropriate, to consider the above-described factors on a case-by-case basis. This bill also would require* that consideration for placement with a relative subsequent to the disposition hearing described above be given again without regard to whether a new placement of a child must be made. By increasing the duties of county social workers, this bill would create a state-mandated local program.

The bill would require the Judicial Council to adopt a rule of court, effective January 1, 2016, that implements these provisions in regard to the consideration of relatives for placement subsequent to the disposition hearing described above.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 361.3 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 361.3. (a) In any case in which a child is removed from the
- 4 physical custody of his or her parents pursuant to Section 361,
- 5 preferential consideration shall be given to a request by a relative
- 6 of the child for placement of the child with the relative, regardless
- 7 of the relative's immigration status. In determining whether
- 8 placement with a relative is appropriate, the county social worker
- 9 and court shall consider, *on a case-by-case basis*, but shall not be
- 10 limited to, ~~consideration of~~ all the following factors:
- 11 (1) The best interest of the child, including special physical,
- 12 psychological, educational, medical, or emotional needs.
- 13 (2) The wishes of the parent, the relative, and child, if
- 14 appropriate.
- 15 (3) The provisions of Part 6 (commencing with Section 7950)
- 16 of Division 12 of the Family Code regarding relative placement.

1 (4) Placement of siblings and half siblings in the same home,
2 if that placement is found to be in the best interest of each of the
3 children as provided in Section 16002.

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

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

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

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

13 (B) Exercise proper and effective care and control of the child.

14 (C) Provide a home and the necessities of life for the child.

15 (D) Protect the child from his or her parents.

16 (E) Facilitate court-ordered reunification efforts with the parents.

17 (F) Facilitate visitation with the child's other relatives.

18 (G) Facilitate implementation of all elements of the case plan.

19 (H) Provide legal permanence for the child if reunification fails.

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

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

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

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

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

16 (c) For purposes of this section:

17 (1) "Preferential consideration" means that the relative seeking
18 placement shall be the first placement to be considered and
19 investigated.

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

28 (d) (1) Subsequent to the hearing conducted pursuant to Section
29 358, consideration for placement shall again be given as described
30 in this section to relatives who have not been found to be unsuitable
31 and who will fulfill the child's reunification or permanent plan
32 requirements. In addition to the factors described in subdivision
33 (a), the county social worker *and the court* shall consider whether
34 the relative has established and maintained a relationship with the
35 child.

36 (2) The Judicial Council shall adopt a rule of court, effective
37 January 1, 2016, that implements this subdivision in regard to the
38 consideration of relatives for placement subsequent to the hearing
39 conducted pursuant to Section 358.

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

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

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

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

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

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

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

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

28 SEC. 2. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.