



Judicial Council of California. Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 29, 2011

Title
Juvenile Law: Sibling Visitation

Agenda Item Type
Action Required

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rule 5.670; revise
Judicial Council form JV-401

Effective Date
July 1, 2011

Recommended by
Family and Juvenile Law Advisory
Committee

Date of Report
February 22, 2011

Hon. Kimberly J. Nystrom-Geist, Cochair
Hon. Dean Stout, Cochair

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending the rule regarding visitation between the child and the child's sibling or siblings pending the jurisdiction hearing and revising the sibling visitation findings and orders form. The amended rule and revised form would conform with a recent change to state law required by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949, 3962).

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2011:

1. Amend rule 5.670 of the California Rules of Court to require the court to provide for sibling visitation unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child; and

2. Revise optional form, *Visitation Attachment: Sibling* (form JV-401), to conform the findings and orders to those required by the amended rule.

The text of the proposed rule is attached at page 5. The proposed revised form is attached at pages 6–7.

Previous Council Action

Originally adopted by the Judicial Council in 1997, rule 1442 was renumbered as rule 5.670 and amended effective January 1, 2007. The provision related to sibling visitation was not affected by that amendment.

Effective January 1, 2006, the *Visitation Attachment: Sibling* (form JV-401) was approved by the Judicial Council as one of 32 forms for optional use in juvenile court dependency proceedings to enhance judicial efficiency and compliance with state and federal law. A technical revision to the form was effective on January 1, 2007.

Rationale for Recommendation

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 made extensive policy and program changes to improve the well-being of and outcomes for children in the foster care system, including those outcomes related to sibling placement and visitation.

Each state receiving federal foster care funding must submit to the federal government a State Plan for Title IV-E of the Social Security Act: Foster Care, Independent Living, and Adoption Assistance. A state’s plan details the state statutes, regulations, and policies that implement the requirements of the applicable federal laws, regulations, and other official issuances. The act requires a state’s plan to include a provision that reasonable efforts were made to place siblings in the same foster care placement unless the state documents that such a joint placement would be contrary to the safety or well-being of any of the siblings. For those siblings not placed together, the state plan must provide for visitation or other ongoing interaction unless the state documents that such visitation or interaction would be contrary to the safety or well-being of any of the siblings. (42 U.S.C. § 671(a)(31).)

Assembly Bill 743 (Portantino; Stats. 2010, ch. 560) implemented those provisions of the act related to sibling placement and ongoing interaction by amending relevant provisions of state law.

Welfare and Institutions Code section 16002(a) was amended to state that it is the Legislature’s intent that siblings be placed together to maintain the continuity of the family and family ties when they are removed from their home unless it has been determined that placement together is “contrary to the safety or well-being of any sibling” rather than the prior standard of “not in the best interest of one or more siblings” Section 16002(b) was amended to require the social worker

to explain why making efforts to place siblings in the same placement would be contrary to the safety and well-being of any of the siblings.

AB 743 also amended sections 16002(b) and 362.1(a)(2) to reflect the change in the federal statute regarding ongoing interaction when siblings are not placed together. Currently, Welfare and Institutions Code section 362.1(a)(2) requires any order placing a child in foster care to provide for visitation between the child and any sibling, unless the court finds by clear and convincing evidence that sibling interaction is detrimental to either child. Effective January 1, 2011, section 362.1(a)(2) was amended to require the court to provide for such sibling visitation unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child. The proposed revision to *Visitation Attachment: Sibling* (form JV-401) and the proposed amendment to rule 5.670 incorporate this language.

Comments, Alternatives Considered, and Policy Implications

The invitation to comment on the proposal was circulated from December 13, 2010, through January 24, 2011, to the standard mailing list for family and juvenile law proposals as well as to the regular rules and forms mailing list. This distribution list includes judges, court administrators, attorneys, social workers, probation officers, mediators, and other family and juvenile law professionals. A total of 11 comments were received. Five commentators agreed with the proposal with one of those suggesting modifications, three commentators agreed with the proposal if modified, and three commentators did not indicate a position on the proposal.¹

The commentator who agreed with the proposal and suggested modification expressed concern regarding the possible conflict with a parent's constitutional right to control visitation with his or her child who is not a dependent of the court and recommended that the proposed amendment specify that there is no intent to conflict with constitutional rights. This same concern was raised by a commentator who agreed with the proposal if it is modified to state that there is no intent to limit constitution rights. The advisory committee recognized the potential conflict and added language to the rule clarifying that the orders for visitation between siblings made in a dependency proceeding is limited to siblings removed from the home or otherwise under the jurisdiction of the juvenile court.

Three commentators pointed out that Welfare and Institutions Code section 16002(b) requires the reasons for a determination that sibling interaction is contrary to the safety and well-being of any sibling to be noted in the court order and recommended the addition of a section for listing the reasons for the determination to the *Attachment: Sibling Visitation* (form JV-401). Two of the commentators agreed with the proposal if the form was revised as suggested, and one commentator agreed with the proposal and recommended the additional revision.

A commentator agreed with the proposal if it was amended to include a definition of "sibling" "if the term 'sibling' is not otherwise defined by existing provision(s) of the Welfare and Institutions

¹ A chart providing the full text of the comments and the committee responses is attached at pages 8–14.

Code.” The committee notes that this term is already defined in Welfare and Institutions Code sections 362.1(c) and 16002(g).

A commentator agreed with the proposal if it was modified to limit the discretion of the judge “to decide whether there is ‘good cause’ for not allowing” sibling interaction. The commentator’s recommendation would require legislative action.

Three commentators did not indicate a position on the proposal. One of these did submit a comment that included a concern regarding a “No Contact Order” remaining in place on a permanent basis. The committee notes that Welfare and Institutions Code section 16002(c) requires a review of the reasons for the suspension of sibling interaction at each six-month review hearing.

Alternatives considered and policy implications

The proposed amended rule and revised form are necessary to ensure that the form accurately reflects the findings and orders required by state and federal law. In addition, the Judicial Council recently approved, effective July 1, 2011, 5 new dependency forms and revisions to 26 other dependency forms to ensure compliance with previous modifications in federal and state law. The addition of form JV-401 will ensure that all related forms will be in compliance with legal requirements as of July 1, 2011.

Implementation Requirements, Costs, and Operational Impacts

Implementation of the revised forms will incur standard reproduction costs.

Relevant Strategic Plan Goals and Operational Plan Objectives

Because this proposal will provide a rule and standardized form that ensure compliance with state and federal legal requirements, it supports the integrity of court orders: Goal IIIA, Modernization of Management and Administration, Objective 4.

Attachments

1. Cal. Rules of Court, rule 5.670, at page 5.
2. Form JV-401, at pages 6–7
3. Chart of comments, at pages 8–14
4. AB 743, at pages 15–18

Rule 5.670 of the California Rules of Court is amended, effective July 1, 2011, to read as:

1 **Rule 5.670. Initial hearing; detention hearings; time limit on custody; setting**
2 **jurisdiction hearing; visitation**

3
4 **(a)–(f) *****

5
6 **(g) Visitation**

7
8 (1) The court must consider the issue of visitation between the child and
9 other persons, ~~including siblings~~, determine if contact pending the
10 jurisdiction hearing would be beneficial or detrimental to the child, and
11 make appropriate orders.

12
13 (2) The court must consider the issue of visitation between the child and
14 any sibling who was not placed with the child, and who was taken into
15 custody with the child or is otherwise under the court’s jurisdiction, and
16 enter an order for sibling visitation pending the jurisdiction hearing,
17 unless the court finds by clear and convincing evidence that sibling
18 interaction between the child and the sibling is contrary to the safety or
19 well-being of either child.

CHILD'S NAME:	CASE NUMBER:
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VISITATION ATTACHMENT: SIBLING

1. Anyone who appears to be under the influence of alcohol or any controlled substance will not be allowed to participate in a scheduled visitation with the child. The visitation supervisor may terminate the visit if this order is violated.
2. Matters relating to the allegations of the petition or issues related to the child's placement are not to be discussed with the child during visits except under the guidance of a counselor in a therapeutic setting. The visitation supervisor may terminate the visit if this order is violated.
3. The prior order of the court suspending
 - a. in-person contact b. written communication c. telephone contact
 - (1) continues to be necessary and remains in full force and effect for the following reasons (*specify*):

(1) continues to be necessary and remains in full force and effect for the following reasons (*specify*):

(2) is modified as set forth in item 4.

4. **Contact between the child and the child's sibling (*name*):**

- a. **In-person visitation** between the child and the child's sibling (*name*):
 - (1) Unsupervised
 - (2) Supervised by the
 - (a) county agency (c) foster family agency
 - (b) other (*specify*):
 - (3) Frequency and duration
 - (a) times per week for a total of hours per week
 - (b) times per month for a total of hours per month
 - (c) An overnight visit every week every other week
 - (d) Other (*specify*):
 - (4) Location
 - (a) Agency visitation facility (c) Foster family agency facility
 - (b) Other (*specify*):
 - (5) Transportation of the child to and from the visits will be provided by the
 - (a) county agency. (c) foster family agency.
 - (b) other (*specify*):
 - (6) Transportation of the child's sibling to and from the visits will be provided by the
 - (a) county agency. (c) foster family agency.
 - (b) other (*specify*):
 - (7) Other orders concerning in-person visitation (*specify*):

b. **Other types of contact permitted (*specify*):**

c. **Contact restrictions**

- (1) For the reasons set forth below in item (2), the following contact between the child and the child's sibling named above *in item 4* is not to occur until further order of this court as the court finds, by clear and convincing evidence, that at this time such contact is contrary to the safety or well-being of the
 - child child's sibling.
 - (a) In-person contact
 - (b) Written communication
 - (c) Telephone contact
- (2) Reasons (*specify*):

CHILD'S NAME: 	CASE NUMBER:
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5. **Contact between the child and the child's sibling (name):**

a. **In-person visitation**

- (1) Unsupervised
- (2) Supervised by the
 - (a) county agency
 - (b) other (specify):
 - (c) foster family agency
- (3) Frequency and duration
 - (a) times per week for a total of _____ hours per week
 - (b) times per month for a total of _____ hours per month
 - (c) An overnight visit every week every other week
 - (d) Other (specify):
- (4) Location
 - (a) Agency visitation facility
 - (b) Other (specify):
 - (c) Foster family agency facility
- (5) Transportation of the child to and from the visits will be provided by the
 - (a) county agency.
 - (b) other (specify):
 - (c) foster family agency.
- (6) Transportation of the child's sibling to and from the visits will be provided by the
 - (a) county agency.
 - (b) other (specify):
 - (c) foster family agency.
- (7) Other orders concerning in-person visitation (specify):

b. **Other types of contact permitted (specify):**

c. **Contact restrictions**

- (1) For the reasons set forth below in item (2), the following contact between the child and the child's sibling named above in item 4 is not to occur until further order of this court as the court finds, by clear and convincing evidence, that at this time such contact is contrary to the safety or well-being of the
 - child child's sibling.
 - (a) In-person contact
 - (b) Written communication
 - (c) Telephone contact
- (2) Reasons (specify):

6. Other (specify):

W11-04**Juvenile Law: Sibling Visitation** (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Alameda County Probation Department By Dennis Handis, Interim Chief Probation Officer	N/I	No specific comment.	No response required.
2.	Mark Chilson Pleasanton, California	N/I	*"No Juvenile Court judge ought to be able to leave in force a No Contact Order that: -Separates siblings on a permanent basis -Prevents siblings from being with all family members in the home, in the absence of a criminal ruling against the one for whom the NCO is issued."	Welfare and Institutions Code section 16002(c) requires a review of the reasons for the suspension of sibling interaction at each six month periodic review hearing.
3.	Haislip W. Hayes, II, CWLS Deputy Public Defender Imperial County Public Defender's Office	A	I agree with the proposed Amendment to Ca. Rule Ct. No. 5.670 and to revisions to Judicial Council Form JV-401	No response required.
4.	Los Angeles County Bar Association, Family Law Section By Barbara K. Hammers, CFLS Legislation Chair	AM	The Committee agrees with this recommendation. There is a strong consensus that the higher legal standard created by these changes supports the intention of the legislature that sibling children in the foster care system be placed together to maintain the continuity of the family unless it is found by clear and convincing evidence that such a placement is contrary to the safety or well-being of any sibling. The proposed revision will ensure that, in the event siblings are not placed together, an order will be made allowing the visitation or findings will be made that such contact is contrary to the safety or well being of the child and/or the child's sibling.	No response required

W11-04

Juvenile Law: Sibling Visitation (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

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	Commentator	Position	Comment	Committee Response
			<p>The only comment/concern voiced by members of the Committee regarding the revisions to CRC 5.670 involves a scenario wherein there could be a potential jurisdictional conflict between the family law and dependency system involving siblings. For example: What if there are siblings in different systems? One sibling (Sib A) in the family law system, the other in the dependency system (Sib B). If an order is made ordering visitation between Sib A and Sib B, does it interfere with the constitutional rights of the non-dependency child's parents to control visitation for Sib A (see <i>Herbst v Swann</i> (2002) 102 Cal.App.4th 813.)</p> <p>Based upon the foregoing, the Committee recommends that the proposed amendment to Rule 5.670 of California Rules of Court specify that there is no intent to conflict with constitutional limitations re court-ordered visitation for any sibling not under dependency jurisdiction. (<i>Herbst v. Swann, supra.</i>)</p>	<p>The advisory committee recognizes the potential jurisdictional conflict and added language limiting orders for visitation between siblings to those siblings removed from the home or otherwise under the jurisdiction of the juvenile court.</p>

W11-04**Juvenile Law: Sibling Visitation** (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

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	Commentator	Position	Comment	Committee Response
			<p>Another comment made by the Committee submitted for your consideration as to the revisions to Judicial Council form JV-401 is that W&I Code § 16002(b) provides that if the court determines that sibling interaction is contrary to the safety and well being of any sibling, "...the <i>reasons</i> for the determination shall be noted in the court order,..." Emphasis added)</p> <p>Accordingly, the Committee recommends that the revised form, in order to implement the amended legislation, include a section for listing the "reasons" in paragraphs 4 and 5 of form JV-401 in the event the court does determine that sibling interaction is contrary to the safety and well-being of any of the siblings.</p>	<p>A section has been added for listing the reasons for the determination that sibling interaction would be contrary to the safety and well-being of any sibling.</p>
5	Orange County Bar Association By John Hueston, President		<p>There is a strong consensus that the higher legal standard created by these changes supports the well-founded legislative directive for maintaining, and thereby reinforcing, sibling relationships.</p> <p>The committee is concerned there is no definition as to "<i>sibling</i>." For example, does 'sibling' include 'half-sibling' or 'stepsibling'? Although not addressed in this specific section, as currently drafted CRC 5.410 offers a workable definition of sibling that could be included to provide guidance ("Sibling" means a biological sibling, half-sibling, or stepsibling of the adoptee) if the term 'sibling' is not otherwise defined by existing provision(s) of the Welfare and Institutions Code.</p>	<p>No response required</p> <p>The advisory committee does not recommend adding a definition of "sibling" to the rule. The term is defined in Welfare and Institutions Code, sections 362.1(c) and 16002(g).</p>

W11-04**Juvenile Law: Sibling Visitation** (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

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	Commentator	Position	Comment	Committee Response
			<p>Another concern raised relates to a potential jurisdictional conflict between the family law and dependency systems. For example: What if there are siblings in different systems? One sibling (Sib A) in the family law system, the other in the dependency system (Sib B). Does the dependency system have jurisdiction over Sib A, such that it could order visitation between Sib A and Sib B? These two systems are governed by different rubrics for parental rights. In this example, the dependency court's ability to order visitation for Sib B, without deference to any parent's constitutional rights, conflicts with constitutional rights of non-dependency parents to control visitation for Sib A. (<i>See Herbst v. Swann</i> (2002) 102 Cal. App.4th 813.) Based upon the foregoing, the Committee recommends that, in addition to a definition of 'sibling', the proposed amendment to Rule 5.670 of California Rules of Court specify that there is no intent to conflict with constitutional limitations re court-ordered visitation for all siblings not under dependency jurisdiction. (<i>Herbst v. Swann, supra.</i>)</p>	<p>The advisory committee recognizes the potential jurisdictional conflict and language limiting orders for visitation between siblings to siblings removed from the home or otherwise under the jurisdiction of the juvenile court.</p>

W11-04**Juvenile Law: Sibling Visitation** (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

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	Commentator	Position	Comment	Committee Response
			<p><u>FORM JV-401 Proposed Revisions</u> W&I Code section 16002(b) provides that if the court determines that sibling interaction is contrary to the safety and well being of any sibling, "...the <u>reasons</u> for the determination shall be noted in the court order, ..."</p> <p>Accordingly, recommend that the revised form, in order to implement the amended legislation, include a section for listing the "reasons" in paragraphs 4 and 5 of Form JV-401 in the event the Court does determine that sibling interaction is contrary to safety and well-being of any of the siblings.</p>	<p>A section has been added for listing the reasons for determining sibling interaction would be contrary to the safety and well-being of any sibling.</p>
6	<p>Orange County Public Defender's Office By Frank Ospino Senior Assistant Public Defender</p>	AM	<p>The Orange County Public Defender's Office supports the recommended amendments to California Rules of Court, Rule 5.670. The proposed amendments harmonize Rule 5.670 with Welfare and Institution Code sections 16002(b) and 362.1(a)(2).</p> <p>With respect to the proposed modifications to JV-401, we support the recommended revisions however respectfully request that the form be further modified to include a section for the Judicial Officer to include or list reasons, if any, for denying sibling visitation or contact. Welfare and Institution Code sections 16002(b) requires, if sibling interaction is denied, that "the reasons for the determination shall be noted in the court order."</p>	<p>No response required.</p> <p>A section has been added for listing the reasons for determining sibling interaction would be contrary to the safety and well-being of any sibling.</p>

W11-04**Juvenile Law: Sibling Visitation** (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

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	Commentator	Position	Comment	Committee Response
7	Ronald Pierce Squaw Valley, California	AM	It is extremely important to maintain family ties, especially between siblings who get pulled into the foster care and adoption system. This amendment would seek to help preserve that important RIGHT. However, I note that there are many areas within the new language that allow a "court" or individual judge to decide whether there is "good cause" for not allowing it. Speaking from experience, the wording allows state judges far too much latitude in making these decisions. To preserve due process for all, the decision as to what constitutes a determination to deny sibling visitation needs to be structured to as to minimize, AS MUCH AS POSSIBLE, judicial discretion for denying visitation. Too often judges rely on social workers for this determination without weighing liberty protections of the family. Please restructure the wording providing for the court, based on clear and convincing evidence, as this usually entails one judge deciding based on his or her own opinion. ! "Clear and convincing evidence" is heavily abused in custody courts.	The proposed restructuring would require legislative action.
8	Superior Court of Riverside County By Hon. Charles Koosed Presiding Judge, Juvenile Court	A	It is about time!	No response required.
9	Superior Court of Sacramento County By Robert Turner ASO II	N/I	No specific comment.	No response required.
10	Superior Court of San Diego County By Michael M. Roddy, Executive Officer	A	No specific comment.	No response required.

W11-04**Juvenile Law: Sibling Visitation** (amend Cal. Rules of Court, rule 5.670; revise Judicial Council form JV-401)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
11	Cynthia J. Wojan Juvenile Court Coordinator Superior Court of Solano County	A	No specific comment.	No response required.

BILL NUMBER: AB 743 CHAPTERED
BILL TEXT

CHAPTER 560
FILED WITH SECRETARY OF STATE SEPTEMBER 30, 2010
APPROVED BY GOVERNOR SEPTEMBER 30, 2010
PASSED THE SENATE AUGUST 18, 2010
PASSED THE ASSEMBLY AUGUST 19, 2010
AMENDED IN SENATE JULY 15, 2010
AMENDED IN SENATE MAY 17, 2010
AMENDED IN ASSEMBLY JANUARY 26, 2010
AMENDED IN ASSEMBLY JANUARY 11, 2010
AMENDED IN ASSEMBLY APRIL 14, 2009

INTRODUCED BY Assembly Member Portantino

FEBRUARY 26, 2009

An act to amend Sections 362.1 and 16002 of, and to repeal and add Section 16010.6 of, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 743, Portantino. Foster care: sibling placement.

Existing law provides for the placement of dependent children by the juvenile court according to specified procedures. Existing law declares the policy of the Legislature relating to foster care, including that foster care should be a temporary method of care for children and that reunification with the natural parent or parents or another alternate permanent living situation such as adoption or guardianship is more suitable to a child's well-being than is foster care.

Existing law requires any order placing a dependent child in foster care, and ordering reunification services, to provide for visitation between the child and any sibling, unless the court finds by clear and convincing evidence that sibling interaction is detrimental to either child.

This bill would, instead, require the order to provide for visitation unless the court finds by clear and convincing evidence that the interaction is contrary to the safety or well-being of either child.

Existing law requires the responsible local agency to make diligent efforts in all out-of-home placements of dependent children to develop and maintain sibling relationships. If siblings are not placed together, the social worker is required to explain why those efforts are not appropriate.

This bill would, instead, require the social worker, if siblings are not placed together, to explain why those efforts would be contrary to the safety or well-being of any of the siblings. The bill also would require the social worker to make diligent efforts to place siblings together in the same placement.

Existing law requires, as soon as possible after a placing agency makes a decision with respect to a placement or a change in placement of a dependent child, the placing agency to notify the child's attorney and provide specified information.

This bill would recast and revise the above requirements relating to the placement of siblings, including requiring the placing agency to make a specified notification to the child's attorney and the

child's sibling's attorney when a planned change of placement will result in the separation of siblings currently placed together.

By increasing the duties of social workers and county placing agencies, this bill would impose a state-mandated local program.

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.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 362.1 of the Welfare and Institutions Code is amended to read:

362.1. (a) In order to maintain ties between the parent or guardian and any siblings and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of his or her parent or guardian, or to encourage or suspend sibling interaction, any order placing a child in foster care, and ordering reunification services, shall provide as follows:

(1) (A) Subject to subparagraph (B), for visitation between the parent or guardian and the child. Visitation shall be as frequent as possible, consistent with the well-being of the child.

(B) No visitation order shall jeopardize the safety of the child. To protect the safety of the child, the court may keep the child's address confidential. If the parent of the child has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, and the victim of the murder was the other parent of the child, the court shall order visitation between the child and the parent only if that order would be consistent with Section 3030 of the Family Code.

(2) Pursuant to subdivision (b) of Section 16002, for visitation between the child and any siblings, unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child.

(3) If the child is a teen parent who has custody of his or her child and that child is not a dependent of the court pursuant to this chapter, for visitation among the teen parent, the child's noncustodial parent, and appropriate family members, unless the court finds by clear and convincing evidence that visitation would be detrimental to the teen parent.

(b) When reunification services are not ordered pursuant to Section 361.5, the child's plan for legal permanency shall include consideration of the existence of and the relationship with any sibling pursuant to Section 16002, including their impact on placement and visitation.

(c) As used in this section, "sibling" means a child related to another person by blood, adoption, or affinity through a common legal or biological parent.

SEC. 2. Section 16002 of the Welfare and Institutions Code is amended to read:

16002. (a) It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group or one

occurrence or individually on separate occurrences, the siblings will be placed in foster care together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

(b) The responsible local agency shall make a diligent effort in all out-of-home placements of dependent children, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker shall explain why the siblings are not placed together and what efforts he or she is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the reasons for the determination shall be noted in the court order, and interaction shall be suspended.

(c) When there has been a judicial suspension of sibling interaction, the reasons for the suspension shall be reviewed at each periodic review hearing pursuant to Section 366. When the court determines that sibling interaction can be safely resumed, that determination shall be noted in the court order and the case plan shall be revised to provide for sibling interaction.

(d) If the case plan for the child has provisions for sibling interaction, the child, or his or her parent or legal guardian shall have the right to comment on those provisions. If a person wishes to assert a sibling relationship with a dependent child, he or she may file a petition in the juvenile court having jurisdiction over the dependent child pursuant to subdivision (b) of Section 388.

(e) If parental rights are terminated and the court orders a dependent child to be placed for adoption, the licensed county adoption agency or the State Department of Social Services shall take all of the following steps to facilitate ongoing sibling contact, except in those cases provided in subdivision (b) where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child:

(1) Include in training provided to prospective adoptive parents information about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships.

(2) Provide prospective adoptive parents with information about siblings of the child, except the address where the siblings of the children reside. However, this address may be disclosed by court order for good cause shown.

(3) Encourage prospective adoptive parents to make a plan for facilitating postadoptive contact between the child who is the subject of a petition for adoption and any siblings of this child.

(f) Information regarding sibling interaction, contact, or visitation that has been authorized or ordered by the court shall be provided to the foster parent, relative caretaker, or legal guardian of the child as soon as possible after the court order is made, in order to facilitate the interaction, contact, or visitation.

(g) As used in this section, "sibling" means a child related to

another person by blood, adoption, or affinity through a common legal or biological parent.

(h) The court documentation on sibling placements required under this section shall not require the modification of existing court order forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

SEC. 3. Section 16010.6 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 16010.6 is added to the Welfare and Institutions Code, to read:

16010.6. (a) As soon as a placing agency makes a decision with respect to a placement or a change in placement of a dependent child, but not later than the close of the following business day, the placing agency shall notify the child's attorney and provide to the child's attorney information regarding the child's address, telephone number, and caregiver.

(b) Absent exigent circumstances, as soon as a placing agency becomes aware of the need for a change in placement of a dependent child that will result in the separation of siblings currently placed together, the placing agency shall notify the child's attorney and the child's siblings' attorney of this proposed separation no less than 10 calendar days prior to the planned change of placement so that the attorneys may investigate the circumstances of the proposed separation. If the placing agency first becomes aware, by written notification from a foster family agency, group home, or other foster care provider, of the need for a change in placement for a dependent child that will result in the separation of siblings currently placed together, and that the child or children shall be removed within seven days, then notice shall be provided to the attorneys by the end of the next business day after the receipt of notice from the provider. In an emergency, the placing agency shall provide notice as soon as possible, but no later than the close of the first business day following the change of placement. This notification shall be deemed sufficient notice for the purposes of subdivision (a).

(c) When the required notice is given prior to a change in placement, the notice shall include information regarding the child's address, telephone number, and caregiver or any one or more of these items of information to the extent that this information is known at the time that the placing agency provides notice to the child's attorney. When the required notice is given after the change in placement, notice shall include information regarding the child's address, telephone number, and caregiver.

(d) The Judicial Council shall adopt a rule of court directing the attorney for a child for whom a dependency petition has been filed, upon receipt from the agency responsible for placing the child of the name, address, and telephone number of the child's caregiver, to timely provide the attorney's contact information to the caregiver and, if the child is 10 years of age or older, to the child. This rule does not preclude an attorney from giving contact information to a child who is younger than 10 years of age.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.