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| Title | Juvenile Law: Family Finding and Engagement (adopt rule 5.637 of the California Rules of Court; amend rules 5.502, 5.534, 5.695, 5.708, 5.715, 5.720, 5.722 and 5.810; adopt Judicial Council forms JV-130, JV-130(A), JV-285, and JV-287) |
| Summary | This proposal would create new rules and forms to implement the mandates and legislative intent of Assembly Bill 938 (Committee on Judiciary; Stats. 2009, chapter 261). The Judicial Council sponsored this bill to improve outcomes for children in foster care by implementing federal requirements that seek to ensure that children who have been removed from their parents can still be cared for by loving relatives. The findings and orders required by the proposed rules would be added to the forms in the companion proposal titled Juvenile Law: Findings and Orders After Hearing—Forms and Related Attachments for Dependency Court Proceedings. |
| Source | Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs |
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Assembly Bill 938 (Com. on Judiciary; Stats. 2009, ch. 261) amended sections 309 and 628 of the Welfare and Institutions Code¹ to require that when a child is removed from his or her parents, the child’s social worker or probation officer must, within 30 days, identify and locate the child’s relatives as defined. The social worker or probation officer must notify located relatives that the child has been removed from his or her parents and explain their various options to participate in the care and placement of the child or support the child’s family. On or after January 1, 2011, the notified relatives must also receive a relative information form to provide the social worker and the court with information about the child’s needs. Provisions in AB 938 reinforce the current requirement in Family Code section 7950 that diligent efforts must be exercised in locating relatives when a child is in need of out-of-home placement.

The proposed rules and forms implement the legislative intent of ensuring that children who have been removed from their parents because of abuse or neglect can still be cared for by loving relatives.²

¹ All further statutory references are to the Welfare and Institutions Code unless specified otherwise.

² “Often when children are removed from their parents because of abuse or neglect, they are removed from their families and their communities, even when loving relatives could step in and care for them. Recognizing this and in response to studies showing the benefits of having foster children cared for by loving relatives, the Fostering Connections Act enacted last year requires that child welfare agencies provide notice to all adult grandparents and

Family Finding and Engagement (FFE) refers to the process of identifying and connecting close and distant relatives to children in foster care. Once connected, relatives can provide potential placement options or can support children simply by establishing meaningful relationships with them. The searches typically follow up on information garnered through child and family interviews and often involve use of Internet search engines.

The importance of FFE as a tool for achieving permanence and stable connections for children and youth has been recognized by many California child welfare policy bodies, including the California Blue Ribbon Commission on Children in Foster Care, the Child Welfare Council's Permanency Committee, and the Co-Investment Partnership.

Court Findings

Sections 309 and 628 require the social worker and probation officer to identify and contact adult relatives in the fifth degree³ within 30 days. Identifying, locating, contacting, and engaging relatives interested in contact and placement with a child, is an ongoing process, however. To carry out the legislative intent of securing placement with relatives and to allow the court effectively to exercise its mandatory judicial oversight of this critically important piece to achieving permanency for a child, the proposed rules require findings at the dispositional hearing and each subsequent status review hearing.

Rule 5.695 governs dispositional hearings, and rule 5.708 governs general review hearings. The proposed amendments to these rules require the court to determine whether the agency has made diligent efforts to identify and locate the individuals specified in the rules. Further, to ensure that the agency work with contacted relatives in a meaningful way to achieve a permanent home or establish lifelong connections for the child, the proposed amendments require the court to determine whether the agency has made diligent efforts to engage the individuals specified in efforts to achieve a permanent home or lifelong connection for the child. Proposed rule 5.637 provides examples of diligent efforts that the court may consider when making the required findings.

The proposed amendments would also require the agency to make efforts to locate and engage tribal extended family members at disposition and both tribal extended family

Connections Act enacted last year requires that child welfare agencies provide notice to all adult grandparents and other relatives within 30 days of a child's removal from the parents and placement in foster care." Assem. Jud. Comm., 3d reading analysis of Assem. Bill 938 (2008-2009 Sess.) p.3.

³ This includes parents, siblings, grandparents, aunts, uncles, nephews, nieces, great-grandparents, great-aunts and - uncles (grandparents' siblings), first cousins, great-great-grandparents, great-great aunts and uncles (great grandparents' siblings), first cousins once removed (parents' cousins), and great-great-great grandparents. Probate Code §13.

members and important individuals⁴ at review hearings. Both of these groups comprise important people who can provide stability and permanency to foster children. Although notification and engagement of important individuals are not expressly required by AB 938, they are typically included in FFE best practices and would more effectively promote the statute's purpose. The County Welfare Directors' Association (CWDA) has already voiced opposition to the inclusion of important individuals in this proposal because important individuals are not required to be notified under section 309.⁵ They are not opposed to including tribal extended family members. The Family and Juvenile Law Advisory Committee (the committee) believes that important individuals can provide critical information about, and support to, children in foster care and must be included on the list of those connections that the agency must locate and engage. Locating and engaging important individuals when seeking permanent placement and connections for children furthers the legislative intent of AB 938. The committee has concluded that the increased stability and permanency for children and the foster care funds saved over the long term outweigh the burden that locating and engaging important individuals would impose on local agencies.

AB 938 states that the agency need not contact and engage a relative when that person's history of family or domestic violence makes contact and engagement inappropriate. Proposed new rule 5.637(c) would state this exception, and require the agency to make a showing sufficient for the court to find that contacting that individual is inappropriate. This finding again allows the court to exercise its judicial oversight and ensure that individuals excluded by the agency as potential placements and connections for a foster child are indeed inappropriate.

To provide a sufficient factual basis for the court's FFE findings, the proposed rules require the agency to include information regarding its FFE efforts at the disposition and review hearings by completing proposed form JV-130, *Family Finding Report to Court*. CWDA has indicated that requiring completion of this form would increase agency workload. They suggested that a narrative describing FFE efforts in the disposition and status review reports would be a more efficient reporting mechanism. The committee is concerned, however, that the juvenile court have all the information it needs to make the required findings in a timely manner. Without sufficient information, the court cannot make an affirmative finding of diligent efforts and, under the proposed rules, would need to continue the hearing until the agency had supplied evidence sufficient to support the findings. The committee believes that requiring the agency to complete proposed form

⁴ Proposed rule 5.502(17) would state that "important individual" means an adult who has a significant, positive connection with a child and may be able to provide support or services to a child and family.

⁵ In addition to the consultation on the relative information form required by the newly enacted statute and described below, staff consulted with the Children's Committee of CWDA on the rule content and the format of the social worker's report to the court.

JV-130 would ensure timely provision of detailed information in a way that the requirement of a narrative in the report would not.⁶ The committee therefore proposes JV-130 as a mandatory form and seeks comment regarding the advantages and disadvantages of adopting it as such.

Relative information form

Recently enacted section 309 requires the Judicial Council to create a Relative information form.⁷ This form must be given to any located relative in dependency cases beginning January 1, 2011. The purpose of the form is to give relatives the opportunity to provide important information about the child to the social worker and to the court. As proposed, *Relative Information Form* (form JV-285) also allows relatives to indicate ways they can provide support and connections to the child and family, a critical piece of family engagement.

Proposed form *Confidential Information* (form JV-287) would allow a relative to provide information to the court and social worker while keeping his or her address and contact information confidential. Often, for safety or privacy reasons, relatives want to keep this information confidential from the parents. Courts have pointed out the need for other mandatory Judicial Council forms to allow for filing without revealing contact information and addresses. While the corresponding rules for many forms are not being changed at this time, proposed form JV-287 indicates on its face that it could be used with other forms, such as *Application and Affidavit for Restraining Order* (form JV-245), *Caregiver Information Form* (form JV-290), and *De facto Parent Request* (form JV-295), if applicants want to keep information confidential.

Proposed amendments to rule 5.534(f) would mirror the filing process of current rule 5.534(n), requiring the clerk's office to provide copies of any form received, and to

⁶ Another possible approach is to detail in the rules what must be included in the FFE narrative in the court report. Possible amendments would include adding a subparagraph to rule 5.690(a)(1), which details what must be in a dispositional social study. Possible subparagraph (C) would read: "The social study must include a discussion of the efforts made to comply with rule 5.637 including, but not limited to: (i) the number of people identified and their relationship to the child; (ii) the number of people contacted; (iii) the number of people interested in ongoing contact with the child; and (iv) the number of people interested in placement of the child." Additionally, rule 5.7089(c)(1), which controls what must be included in a review hearing report, could be amended by adding subparagraph (C). Possible subparagraph (C) would read: (1) The report must include... (C) a summary of Family Finding and Engagement activities since the last hearing, including but not limited to: (i) the number of relatives identified since the last hearing; (ii) the number of potential placement options identified since the last hearing; (iii) the number of relatives contacted by the agency since the last hearing; (iv) a description of activities to secure a permanent home or lifelong connection for the child; and (v) a summary of progress made in identifying possible placements and lifelong connections based on these activities."

⁷ Section 309 further requires the Judicial Council to create the form in consultation with the California Department of Social Services (CDSS) and the County Welfare Directors Association (CWDA). Form JV-285, as proposed, reflects the recommendations from CDSS and CWDA.

complete *Proof of Service—Juvenile* (form JV-510). The proposed amendments would not require the relative to file eight copies, as rule 5.534(n)(4)(B) does. The proposed procedure would increase clerks' workload by creating additional filings, and photocopying and service requirements. Since the form is not connected to any hearing type, the time frames for filing in rule 5.534 would not apply. Additionally, since many relatives would not have the information necessary to identify the child for accurate filing, the rule would require the social worker to fill out the caption information, including the court address, child's name, and case number before giving the form to the relative.

Definitions

Newly enacted sections 309 and 628 require the social worker and probation officer, within 30 days of the child's removal, to conduct an investigation in order to identify and locate all grandparents, adult siblings, and other relatives of the child as defined in section 319. Section 319 references "relatives in the fifth degree." The proposed amendments to rule 5.502(28) would mirror the requirements in section 319. Further, to provide a useful definition, the proposed amendments would list the relatives in the fifth degree, as defined in Probate Code section 13.

Proposed amendments to rule 5.502(17) and 5.502(35) would define "important individuals" and "tribal extended family members," two important categories of people who can provide stability and permanency to foster children.

Relative Placements

The CWDA pointed out that the rule, as proposed, does not distinguish between the Family Finding efforts that must be made for children who are currently living with relatives and those who are placed with nonrelatives. While the urgency to find relative placements for those children already placed with relatives may not be as high as for those who are placed in traditional foster care settings, the committee recognizes that a significant number of relatives must discontinue caring for a child for a number of reasons, a situation that occurs frequently enough that it raises the importance of having other relatives willing to offer support to the current placement or willing to care for the child should the current relative placement become unavailable. The Committee also notes that the legislation did not distinguish between children placed with relatives and children placed with non-relatives. The committee particularly seeks comment on whether the rules should apply differently to children who are placed with relatives.

Judicial Council Forms

The Judicial Council, effective January 1, 2006, approved a set of optional forms for use in dependency proceedings. The forms include the findings and orders required at the standard dependency hearing as of the initial effective date. The proposed new rules 5.695 and 5.708, discussed above, require the addition of a set of findings and orders

regarding the diligent efforts made to identify, locate, and engage the specified individuals in efforts to achieve a permanent home or life-long connection for the child. The proposed amendments to forms JV-420, JV-421, JV-430, JV-435, JV-438, JV-440, JV-442, JV-446, JV-455, and JV-457 include these findings and orders. These forms are being circulated for comment in the proposal titled Juvenile Law: Findings and Orders After Hearing—Forms and Related Attachments for Dependency Court Proceedings.

The text of the proposed rules is attached at pages 7–20.

The text of the proposed forms is attached at pages 21–27.

The text of Family Code section 7950 and Welfare and Institutions Code sections 309 and 628 are attached at pages 28–34.

The text of All County Letter No. 09-86 is attached at pages 35–42.

California Rules of Court, rule 5.637 would be adopted and rules 5.502, 5.534, 5.695, 5.708, 5.715, 5.720, 5.722, and 5.810 would be amended effective January 1, 2011, to read:

1 **Rule 5.502. Definitions and use of terms**

2
3 Definitions (§§ 202(e), 319, 361, 361.5(a)(3), 366(a)(1)(B), 628.1, 636, 726, 727.3(c)(2),
4 727.4(d); 20 U.S.C. § 1415)

5
6 As used in these rules, unless the context or subject matter otherwise requires:

7
8 (1–17) ***

9
10 (18) “Important individual” means an adult who has a significant, positive connection
11 with a child and may be able to provide support or services to a child and family.

12
13 ~~(18)–(26) (19)–(27)~~ ***

14
15 ~~(27)~~(28) “Relative” means

16
17 (A) An adult who is related to the child by blood, adoption, or affinity within the
18 fifth degree of kinship. This includes parents, siblings, grandparents, aunts,
19 uncles, nephews, nieces, great-grandparents, great- aunts and gear-uncles
20 (grandparents’ siblings), first cousins, great-great- grandparents, great-great-
21 aunts and great-great-uncles (great-grandparents’ siblings), first cousins once
22 removed (parents’ cousins), and great-great-great-grandparents;

23
24 (B) ~~including~~Stepparents; and stepsiblings;;

25
26 (C) ~~and~~ All relatives whose status is preceded by the prefix “great,” “great-great,”
27 or “grand;” ; and

28
29 (D) ~~or~~ The spouse or domestic partner of any of these the persons in (a)–(c), even
30 if the marriage was terminated by death or dissolution.

31
32 ~~(28)–(33) (29)–(34)~~ ***

33
34 (35) “Tribal extended family member” means a family member as defined by the law or
35 custom of the Indian child’s tribe. (25 U.S.C. §1903 (2).)

36
37
38 **Rule 5.534. General provisions—all proceedings**

39
40 (a)–(e) ***

1 (f) **Relatives**

2
3 (1) On a sufficient showing the court may permit relatives of the child to:

4
5 ~~(1)~~(A) Be present at the hearing; and

6
7 ~~(2)~~(B) Address the court.

8
9 (2) Relatives of the child have the right to submit information about the child to
10 the court at any time. Written information about the child may be submitted
11 to the court using the *Relative Information Form* (form JV-285) or in the
12 form of a letter to the court.

13
14 (3) When a relative is located pursuant to rule 5.637, the social worker must give
15 the relative:

16
17 (A) The letter required by section 309 and the “Important Information for
18 Relatives” document, as distributed in All County Letter No. 09-86;

19
20 (B) A *Relative Information Form* (form JV-285), with the caption boxes on
21 the right filled out and specifying the county and address of the court,
22 the child’s name and date of birth, and the case number; and

23
24 (C) *Confidential Information Form* (form JV-287).

25
26 (4) When form JV-285 or a relative letter is received by the court, the court clerk
27 must provide the social worker, all unrepresented parties, and all attorneys
28 with a copy of the completed form or letter immediately upon receipt. The
29 clerk also must complete, file, and distribute *Proof of Service—Juvenile*
30 (form JV-510). The clerk may use any technology designed to speed the
31 distribution process, including drop boxes in the courthouse, e-mail, or fax to
32 distribute the JV-285 form or letter and proof of service form.

33
34 (5) When form JV-287 is received by the court, the court clerk must place it in a
35 confidential portion of the case file.

36
37
38 (g)–(p) ***

39
40 **Advisory Committee Comment**

41
42 Because the intent of subdivision (m) is to expand access to the courts for caregivers of children
43 in out-of-home care, the rule should be liberally construed. To promote caregiver participation

1 and input, judicial officers are encouraged to permit caregivers to verbally address the court when
2 caregivers would like to share information about the child. In addition, court clerks should allow
3 filings by caregivers even if the caregiver has not strictly adhered to the requirements in the rule
4 regarding number of copies and filing deadlines.

5
6
7 **Rule 5.637. Family Finding and Engagement**
8

- 9 (a) Within 30 days of removal, the agency must conduct an investigation to locate and
10 contact the child’s family members, as defined in rule 5.502(28) and (35).
11
- 12 (b) The agency must make ongoing efforts to locate, contact, and engage the
13 individuals in rule 5.502(18), (28), and (35) in efforts to achieve a permanent home
14 or lifelong connection for the child, until the case is dismissed or the child is in a
15 placement willing to adopt or accept legal guardianship of the child.
16
- 17 (c) The agency does not need to contact and engage individuals when that individual’s
18 history of family or domestic violence makes contact and engagement
19 inappropriate. If the agency does not contact an individual, the agency must make a
20 showing sufficient for the court to find that contact is inappropriate.
21
- 22 (d) The agency must submit a completed *Family Finding Report to Court* (form JV-
23 130) at the dispositional hearing. The form must contain information regarding the
24 individuals identified under this rule and a summary that includes, but need not be
25 limited to, the following information:
26
- 27 (1) The number of people identified and their relationship to the child;
 - 28
 - 29 (2) The number of people contacted;
 - 30
 - 31 (3) The number of people interested in ongoing contact with the child; and
 - 32
 - 33 (4) The number of people interested in placement of the child.
 - 34
- 35 (e) The agency must submit a completed *Family Finding Report to Court* (form JV-
36 130) at each review hearing. The form must contain information regarding the
37 individuals identified under this rule and a summary of Family Finding and
38 Engagement activities occurring since the last hearing, including but not limited to:
39
- 40 (1) The number of people identified since the last hearing;
 - 41
 - 42 (2) The number of potential placement options identified since the last hearing;
 - 43

- 1 (3) The number of people contacted by the agency since the last hearing;
- 2
- 3 (4) A description of activities to secure a permanent home or lifelong connection
- 4 for the child; and
- 5
- 6 (5) A summary of progress made in identifying possible placements and lifelong
- 7 connections based on these activities.
- 8

9 (f) When a finding is required under rule 5.695 or 5.708, the court should consider, as
10 examples of diligent efforts to locate and contact individuals, whether the agency
11 has done the following:

- 12
- 13 (1) Asked the child in an age-appropriate manner about relatives important to the
- 14 child, consistent with the child’s best interest;
- 15
- 16 (2) Obtained information regarding the location of the child’s adult relatives;
- 17
- 18 (3) Reviewed the child’s case file for family/extended family information;
- 19
- 20 (4) Contacted identified family members;
- 21
- 22 (5) Asked identified family members for the names of other relatives;
- 23
- 24 (6) Used Internet search tools to locate family and other people identified as
- 25 supports; and
- 26
- 27 (7) Developed a genogram, family tree, family map, or other diagram of family
- 28 relationships.
- 29

30 (g) When a finding is required under rule 5.695 or 5.708, the court can consider, as
31 examples of diligent efforts to engage the individuals in efforts to achieve a
32 permanent home or lifelong connection for the child, whether the agency has done
33 the following:

- 34
- 35 (1) Interviewed the family with the goal of identifying supports;
- 36
- 37 (2) Held team meetings of family members and other important individuals;
- 38
- 39 (3) Arranged contact with the child and interested family members;
- 40
- 41 (4) Identified family resources and supports needed to sustain existing
- 42 relationships and maintain new or reestablished relationships with the child;
- 43 and

1
2 (5) Discussed permanency options with interested individuals.

3
4 **(h)** If the disposition hearing is continued, the court may set a hearing at any time 30
5 days after removal from the parent’s home on the issue of the agency’s efforts to
6 locate, contact, and engage the individuals in rule 5.502(28) and (35) in efforts to
7 achieve a permanent home or lifelong connection for the child.
8
9

10 **Rule 5.695. Findings and orders of the court—disposition**

11
12 **(a)–(e)** ***

13
14 **(f) Family Finding determination**

15
16 (1) The court must consider whether the agency has made diligent efforts to
17 locate and contact the relatives referred to in rule 5.637(a). The court can
18 consider as examples of diligent efforts the activities listed in rule 5.637(f).

19
20 (2) The court must consider whether the agency has made diligent efforts to
21 engage the individuals referred to in rule 5.637(a) in efforts to achieve a
22 permanent home or lifelong connection for the child. The court can consider
23 as examples of diligent efforts the activities listed in rule 5.637(g).

24
25 (3) The court must make the following findings:

26
27 (A) The agency has made diligent efforts to locate and contact the
28 individuals referred to in rule 5.637(a); or

29
30 (B) The agency did not make diligent efforts to locate and contact the
31 individuals referred to in rule 5.637(a). If the court makes this finding,
32 the court must order the agency to make diligent efforts to locate and
33 contact the individuals referred to in rule 5.637(a) except for an
34 individual the court finds inappropriate to contact under rule 5.637(c),
35 and may require a written or verbal report to the court at a later time;
36 and

37
38 (C) The agency has made diligent efforts to engage the individuals referred
39 to in rule 5.637(a) in efforts to achieve a permanent home or lifelong
40 connection for the child; or

41
42 (D) The agency did not make diligent efforts to engage the individuals in
43 5.637(a) in efforts to achieve a permanent home or lifelong connection

1 for the child. If the court makes this finding, the court must order the
2 agency to make diligent efforts to engage the individuals referred to in
3 rule 5.637(a) in efforts to achieve a permanent home and lifelong
4 connection for the child except for an individual the court finds
5 inappropriate to contact under rule 5.637(c), and may require a written
6 or verbal report to the court at a later time; and

7
8 (E) If the agency has not contacted an individual in rule 5.637(b) due to a
9 history of family or domestic violence:

10
11 (i) the agency has made a sufficient showing that the individual is
12 inappropriate to contact and the agency does not need to contact
13 that individual; or

14
15 (ii) the agency has not made a sufficient showing that the individual
16 is inappropriate to contact. If the court makes this finding, the
17 court must order the agency to make diligent efforts to contact
18 the individual or must order the agency to provide a written or
19 verbal report to the court regarding why contact is inappropriate.

20
21
22 ~~(f)-(j)~~ (g)-(k) ***

23
24
25 **Rule 5.708. General review hearing requirements**

26
27 (a)-(j) ***

28
29 **(k) Family Finding determination**

30
31 (1) The court must consider whether the agency has made diligent efforts to
32 locate and contact the individuals referred to in rule 5.637(b). The court can
33 consider as examples of diligent efforts the activities listed in 5.637(f).

34
35 (2) The court must consider whether the agency has made diligent efforts to
36 engage the individuals referred to in rule 5.637(b) in efforts to secure a
37 permanent home or lifelong connection for the child. The court can consider
38 as examples of diligent efforts the activities listed in rule 5.637(g).

39
40 (3) The court must make the following findings:

41
42 (A) The agency has made diligent efforts to locate and contact the
43 individuals referred to in rule 5.637(b); or

1
2 (B) The agency did not make diligent efforts to locate and contact the
3 individuals referred to in rule 5.637(b). If the court makes this finding,
4 the court must order the agency to make diligent efforts to locate and
5 contact the individuals referred to in rule 5.637(b), and may require a
6 written or verbal report to the court at a later time; and

7
8 (C) The agency has made diligent efforts to engage the individuals referred
9 to in rule 5.637(b) in efforts to achieve a permanent home or lifelong
10 connection for the child; or

11
12 (D) The agency did not make diligent efforts to engage the individuals
13 referred to in rule 5.637(b) in efforts to achieve a permanent home or
14 lifelong connection for the child. If the court makes this finding, the
15 court must order the agency to make diligent efforts to engage
16 individuals referred to in rule 5.637(b) in efforts to achieve a permanent
17 home or lifelong connection for the child and may require a written or
18 verbal report to the court at a later time; and

19
20 (E) If the agency has not contacted an individual in rule 5.637(a) due to a
21 history of family or domestic violence:

22
23 (i) the agency has made a sufficient showing that the individual is
24 inappropriate to contact and the agency does not need to contact
25 that individual; or

26
27 (ii) the agency has not made a sufficient showing that the individual
28 is inappropriate to contact. If the court makes this finding, the
29 court must order the agency to make diligent efforts to contact
30 the individual or must order the agency to provide a written or
31 verbal report to the court regarding why contact is inappropriate.
32

33 ~~(k)-(o)(l)-(p)~~ ***

34
35 **Rule 5.715. Twelve-month permanency hearing**

36
37 (a) ***

38
39 (b) **Determinations and conduct of hearing (§§ 361.5, 366, 366.1, 366.21)**

40
41 At the hearing, the court and all parties must comply with all relevant requirements
42 and procedures in rule 5.708, General review hearing requirements. The court must

1 make all appropriate findings and orders specified in rule 5.708 and proceed as
2 follows:

3
4 (1)–(3) ***

5
6 (4) If the court does not order return of the child to the parent or legal guardian
7 and the time period for providing court-ordered services has been met or
8 exceeded, as provided in section 361.5(a)(1), the court must specify the
9 factual basis for its finding of risk of detriment to the child and proceed as
10 follows in selecting a permanent plan:

11
12 (A)–(B) ***

13
14 (C) If the court finds by clear and convincing evidence, including a
15 recommendation by the appropriate state or county adoption agency,
16 that there is a compelling reason for determining that a section 366.26
17 hearing is not in the best interest of the child because the child is not a
18 proper subject for adoption and has no one willing to accept legal
19 guardianship; and also finds that the agency has made diligent efforts
20 to locate an appropriate relative for the child’s placement and that each
21 relative whose name was submitted to the agency was evaluated as a
22 possible caregiver for the child:

23
24 (i)–(v) ***

25
26 (5) ***

27
28
29 **Rule 5.720. Eighteen-month permanency review hearing**

30
31 (a) ***

32
33 (b) **Determinations and conduct of hearing (§§ 361.5, 366.22)**

34
35 At the hearing the court and all parties must comply with all relevant requirements
36 and procedures in rule 5.708, General review hearing requirements. The court must
37 make all appropriate findings and orders specified in rule 5.708 and proceed as
38 follows:

39
40 (1)–(2) ***

1 (3) If the court does not order return of the child to the custody of the parent or
2 legal guardian, the court must specify the factual basis for its finding of risk
3 of detriment and do one of the following:
4

5 (A) ***
6

7 (B) Terminate reunification services and order that the child remain in a
8 planned permanent living arrangement, if it finds by clear and
9 convincing evidence already presented, including a recommendation by
10 the appropriate state or county adoption agency, that there is a
11 compelling reason for determining that a section 366.26 hearing is not
12 in the best interest of the child because the child is not a proper subject
13 for adoption and has no one willing to accept legal guardianship, and
14 also finds that the agency has made diligent efforts to locate an
15 appropriate relative for the child's placement and that each relative
16 whose name was submitted to the agency was evaluated as a possible
17 caregiver for the child.
18

19 (i)–(iv) ***
20

21 (C) ***
22

23 (4) ***
24
25

26 **Rule 5.722. Twenty-four-month subsequent permanency review hearing**
27

28 (a) ***
29

30 (b) **Determinations and conduct of hearing (§ 366, 366.1, 366.25)**
31

32 At the hearing, the court and all parties must comply with all relevant requirements
33 and procedures in rule 5.708, General review hearing requirements. The court must
34 make all appropriate findings and orders specified in rule 5.708 and proceed as
35 follows:
36

37 (1) ***
38

39 (2) If the court does not order the return of the child to the custody of the parent
40 or legal guardian, the court must specify the factual basis for its finding of
41 risk of detriment and do one of the following:
42

1 (A) If the court finds by clear and convincing evidence, including a
2 recommendation by the appropriate state or county adoption agency,
3 that there is a compelling reason for determining that a section 366.26
4 hearing is not in the best interest of the child because the child is not a
5 proper subject for adoption and has no one willing to accept legal
6 guardianship, and finds that the agency has made diligent efforts to
7 locate an appropriate relative for the child’s placement and that each
8 relative whose name was submitted to the agency was evaluated as a
9 possible caregiver for the child, the court must terminate reunification
10 services and order that the child remain in a planned permanent living
11 arrangement.

12
13 (i) – (iv) ***

14
15 (B) ***

16
17 (3) ***

18
19 **Rule 5.810. Reviews, hearings, and permanency planning**

20
21 **(a) Six-month status review hearings (§§ 727.2, 11404.1)**

22
23 For any ward removed from the custody of his or her parent or guardian under
24 section 726 and placed in a home under section 727, the court must conduct a status
25 review hearing no less frequently than once every six months from the date the
26 ward entered foster care. The court may consider the hearing at which the initial
27 order for placement is made as the first status review hearing.

28
29 (1)–(2) ***

30
31 (3) *Findings and orders (§ 727.2(d))*

32
33 The court must consider the safety of the ward and make findings and orders
34 that determine the following:

35
36 (A)–(H) ***

37
38 (I) Each parent was not actively involved in the development of the case
39 plan and plan for permanent placement. If the court makes such a
40 finding, the court must order the agency to actively involve each parent
41 in the development of the case plan and plan for permanent placement,
42 unless the court finds that each parent is unable, unavailable, or
43 unwilling to participate;

1
2 (J) The agency has made diligent efforts to locate and contact the
3 individuals referred to in rule 5.637(b); or

4
5 (K) The agency did not make diligent efforts to locate and contact the
6 individuals referred to in rule 5.637(b). If the court makes this finding,
7 the court must order the agency to make diligent efforts to locate and
8 contact the individuals referred to in rule 5.637(b) except for an
9 individual the court finds inappropriate to contact under rule 5.637(c),
10 and may require a written or verbal report to the court at a later time;
11 and

12
13 (L) The agency has made diligent efforts to engage the individuals referred
14 to in rule 5.637(b) in efforts to achieve a permanent home or lifelong
15 connection for the child; or

16
17 (M) The agency did not make diligent efforts to engage the individuals
18 referred to in rule 5.637(b) in efforts to achieve a permanent home or
19 lifelong connection for the child. If the court makes this finding, the
20 court must order the agency to make diligent efforts to engage the
21 individuals referred to in rule 5.637(b) in efforts to achieve a permanent
22 home and lifelong connection for the child except for an individual the
23 court finds inappropriate to contact under rule 5.637(c), and may
24 require a written or verbal report to the court at a later time.

25
26 (4) ***

27
28 **(b) Permanency planning hearings (§§ 727.2, 727.3, 11404.1)**

29
30 A permanency planning hearing for any ward who has been removed from the
31 custody of a parent or guardian and not returned at a previous review hearing must
32 be held within 12 months of the date the ward entered foster care and periodically
33 thereafter, but no less frequently than once every 12 months while the ward
34 remains in placement. However, when no reunification services are offered to the
35 parents or guardians under section 727.2(b), the first permanency planning hearing
36 must occur within 30 days of disposition.

37
38 (1) ***

39
40 (2) *Findings and orders*

41
42 At each permanency planning hearing, the court must consider the safety of
43 the ward and make findings and orders regarding the following:

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(A)–(D) ***

(E) Whether or not the child was not actively involved in the development of his or her own case plan and plan for permanent placement. If the court finds that the child was not actively involved in the development of his or her own case plan and plan for permanent placement, the court must order the probation officer to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate; ~~and~~

(F)***

(G) Each parent was not actively involved in the development of the case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve each parent in the development of the case plan and plan for permanent placement, unless the court finds that each parent is unable, unavailable, or unwilling to participate;

(H) The agency has made diligent efforts to locate and contact the individuals referred to in rule 5.637(b); or

(I) The agency did not make diligent efforts to locate and contact the individuals referred to in rule 5.637(b). If the court finds that the agency did not make diligent efforts to locate and contact the individuals referred to in rule 5.637(b), the court must order the agency to make diligent efforts to locate and contact the individuals referred to in rule 5.637(b) except for an individual the court finds inappropriate to contact under rule 5.637(c), and may require a written or verbal report to the court at a later time; and

(J) The agency has made diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home or lifelong connection for the child; or

(K) The agency did not make diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home or lifelong connection for the child. If the court finds that the agency did not make diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home or lifelong connection for the child, the court must order the agency to make diligent efforts to

1 engage the individuals referred to in rule 5.637(b) in efforts to achieve
2 a permanent home and lifelong connection for the child except for an
3 individual the court finds inappropriate to contact under rule 5.637(c),
4 and may require a written or verbal report to the court at a later time.
5

6 (3)–(4) ***

7
8 **(c) Postpermanency status review hearings (§ 727.2)**
9

10 A postpermanency status review hearing must be conducted annually for wards in
11 placement, 6 months after each permanency planning hearing.
12

13 (1) ***

14
15 (2) *Findings and orders*
16

17 At each postpermanency status review hearing, the court must consider the
18 safety of the ward and make findings and orders regarding the following:
19

20 (A)–(B) ***
21

22 (C) The extent of the probation department’s compliance with the case plan
23 in making reasonable efforts to complete whatever steps are necessary
24 to finalize the permanent plan for the child; ~~and~~
25

26 (D) Whether or not the child was actively involved in the development of
27 his or her own case plan and plan for permanent placement. If the court
28 makes such a finding, the court must order the agency to actively
29 involve the child in the development of his or her own case plan and
30 plan for permanent placement, unless the court finds that the child is
31 unable, unavailable, or unwilling to participate;:
32

33 (E) The agency has made diligent efforts to locate and contact the
34 individuals referred to in rule 5.637(b); or
35

36 (F) The agency did not make diligent efforts to locate and contact the
37 individuals referred to in rule 5.637(b). If the court finds that the
38 agency did not make diligent efforts to locate and contact the
39 individuals referred to in rule 5.637(b), the court must order the agency
40 to make diligent efforts to locate and contact the individuals referred to
41 in rule 5.637(b) except for an individual the court finds inappropriate to
42 contact under rule 5.637(c), and may require a written or verbal report
43 to the court at a later time; and

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(G) The agency has made diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home or lifelong connection for the child; or

(H) The agency did not make diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home or lifelong connection for the child. If the court finds that the agency did not make diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home or lifelong connection for the child, the court must order the agency to make diligent efforts to engage the individuals referred to in rule 5.637(b) in efforts to achieve a permanent home and lifelong connection for the child except for an individual the court finds inappropriate to contact under rule 5.637(c), and may require a written or verbal report to the court at a later time.

(d)–(f) ***

| | |
|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____ | FOR COURT USE ONLY DRAFT 6 04/15/10 xyz Not approved by the Judicial Council |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| CASE NAME: | |
| FAMILY FINDING REPORT TO COURT Version _____ | CASE NUMBER: |

- | | |
|---|---|
| 1. a. Child's name: b. Child's date of birth: c. Child's current placement type: d. Date child removed from parent: e. Number of placements since removal: j. Permanency goal: <input type="checkbox"/> reunification <input type="checkbox"/> adoption <input type="checkbox"/> Tribal Customary adoption <input type="checkbox"/> legal guardianship <input type="checkbox"/> permanent placement with relative <input type="checkbox"/> independent living with lifelong connection (<i>name</i>): | f. Child's gender: g. Ethnicity: h. Child's Indian tribe: i. Date child's tribe contacted (<i>date and name of contact</i>): |
|---|---|

2. **UNDER THE LAW, THE COUNTY MUST EXERCISE DUE DILIGENCE TO IDENTIFY AND LOCATE ALL RELATIVES IN THE FIFTH DEGREE. THIS INCLUDES:**

First Degree: Mother, Father, Stepmother, Stepfather
Second Degree: Siblings, Stepsiblings, Grandparents
Third Degree: Aunts, Uncles, Nephews, Nieces, Great-grandparents
Fourth Degree: Cousins, Great-aunts and -uncles (Grandparents' siblings), Great-great Grandparents
Fifth Degree: First cousins once removed (Parents' cousins), Great-great-aunts and -uncles (Great-grandparents' siblings), Great-great-great-grandparents
Relatives by Marriage: All persons married at one time to one of the persons listed above (even if marriage ended due to death or divorce).

*Under California Rules of Court, rule 5.637, the county must also make diligent efforts to locate, contact, and engage all relatives, tribal members, and important individuals.

| | |
|---|---|
| a. <input type="checkbox"/> Parent Name | b. <input type="checkbox"/> Parent Name |
| Address and telephone number (<i>unless confidential</i>): | Address and telephone number (<i>unless confidential</i>): |
| <input type="checkbox"/> Identified (<i>date</i>): <input type="checkbox"/> Contacted (<i>date</i>): <input type="checkbox"/> Phone <input type="checkbox"/> in person <input type="checkbox"/> e-mail <input type="checkbox"/> Given letter and attachments (<i>date</i>): OR <input type="checkbox"/> No notice/domestic violence history <input type="checkbox"/> Interested in <input type="checkbox"/> contact <input type="checkbox"/> placement <input type="checkbox"/> permanent placement | <input type="checkbox"/> Identified (<i>date</i>): <input type="checkbox"/> Contacted (<i>date</i>): <input type="checkbox"/> Phone <input type="checkbox"/> in person <input type="checkbox"/> e-mail <input type="checkbox"/> Given letter and attachments (<i>date</i>): OR <input type="checkbox"/> No notice/domestic violence history <input type="checkbox"/> Interested in <input type="checkbox"/> contact <input type="checkbox"/> placement <input type="checkbox"/> permanent placement |
| Additional information: | Additional information: |

| | |
|---------------------|--------------|
| CASE NAME: — | CASE NUMBER: |
|---------------------|--------------|

FAMILY FINDING ACTIVITIES SUMMARY—FIRST 30 DAYS

Under California Rules of Court, rule 5.637(d), the summary must include the number of relatives identified, the number of relatives contacted, the number of relatives interested in ongoing contact, and the number of relatives interested in placement. If you did not contact a relative because a history of domestic violence makes contact inappropriate, explain here.

FAMILY FINDING AND ENGAGEMENT (FFE) DILIGENT EFFORTS SUMMARY

Under California Rules of Court, rule 5.637(e), the summary must include FFE activities since the last hearing, including but not limited to, the number of relatives identified, the number of potential placement options identified, the number of relatives contacted, a description of activities to secure a permanent home or lifelong connection for the child, and a summary of progress made in identifying possible placements and lifelong connections. If you did not contact a relative because a history of domestic violence makes contact inappropriate, explain here.

FAMILY TEAM MEETINGS SUMMARY

Describe any family team meetings held since the last hearing, including the date, length, and type of meeting held; the number of people invited; the number of participants; each participant's name and relationship to the child (unless confidential); the next steps identified and who is responsible for those steps; and the expected outcomes.

As a relative of the child who has been removed from the home, you may give written information to the court about the child on this form or in a letter. After filling out this form, give it to the clerk of the court. Please know that other people involved in the case, including the parents, will read this form.

If you want to keep your address or telephone number confidential, fill out Form JV-287, Confidential Information Form, and do not write the address or phone number on this form.

1 Your name: _____
Your address: _____

Your telephone number: _____

2 Your relation to the child: maternal paternal
 grandparent brother/sister aunt/uncle cousin
 family friend
 tribal extended family member
 other (specify): _____

3 a. Child's name: _____
b. Child's date of birth: _____

4 I ask to talk to the judge at the next court hearing.

5 Current status of child's medical, dental, and general physical health:

6 Current status of child's emotional and behavioral health:

7 Current status of child's education:

8 Other information helpful to the court:

Clerk stamps date here when form is filed.

DRAFT 5 03/11/10 xyz
Not Approved by the
Judicial Council

Social worker fills in court name and street address:

Superior Court of California, County of

Social worker fills in child's name and date of birth:

Child's Name:

Date of Birth:

Social worker fills in case number:

Case Number:



Child's name: _____

Below are things you can do to help the child. You can pick some or none of the things listed below. It is up to the social worker and the court if you will be asked to do these things.

9 I want to:

- telephone the child
- write letters to the child
- take the child on outings
- take the child to/from school
- take the child to visits with brothers and/or sisters
- take the child to therapy
- take the child to family gatherings
- help the social worker make a case plan for the child
- take the child to visits with parents
- take the child to medical appointments
- supervise the child during visits with brothers and sisters
- watch the child after school
- have the child live with me
- other (describe): _____

You can also help the parents. For example, you can help with transportation, housing, visits, and child care. It is up to the social worker and the court if you will be asked to do these things.

10 I want to help the father mother

(Describe): _____

11 Other relatives who can help the child

a. Name: _____ Relationship to child: _____

Contact information: _____

or I want to keep the contact information confidential and ask that the child's social worker get this information from me.

b. Name: _____ Relationship to child: _____

Contact information: _____

or I want to keep the contact information confidential and ask that the child's social worker get this information from me.

c. Name: _____ Relationship to child: _____

Contact information: _____

or I want to keep the contact information confidential and ask that the child's social worker get this information from me.

12 If you need more space to respond to any section on this form, please check this box and attach additional pages.

Number of pages attached: _____

Date: _____

Type or print your name

Sign your name

This form may be used to keep addresses confidential. It may be used with any Judicial Council Juvenile Court form, including Form JV-180, Request to Change Court Order; form JV-245, Application and Affidavit for Restraining Order; Form JV-285, Relative Information Form, Form JV-290, Caregiver Information Form; and Form JV-295, De Facto Parent Request.

You need to fill out only the information that you know. You do not need to fill out the entire form.

1 Your name: _____
 Your phone number: _____
 Your address: _____

2 Child's name: _____
 Child's phone number, if known: _____
 Child's address, if known: _____

3 Child's Indian custodian, if any (*name each*): _____
 Phone number: _____
 Address: _____

4 Child's caregiver (*name each*): _____
 Caregiver's telephone number: _____
 Caregiver's address: _____

Clerk stamps date here when form is filed.

DRAFT 4 03/12/10 xyz
Not approved by the
Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

clerk fills in case number when form is filled:

Case Number:

§ 7950. Relatives; race, color or national origin

(a) With full consideration for the proximity of the natural parents to the placement so as to facilitate visitation and family reunification, when a placement in foster care is being made, the following considerations shall be used:

(1) Placement shall, if possible, be made in the home of a relative, unless the placement would not be in the best interest of the child. Diligent efforts shall be made by an agency or entity to which this subdivision applies, to locate an appropriate relative. Before any child may be placed in long-term foster care, the court shall find that the agency or entity to which this subdivision applies has made diligent efforts to locate an appropriate relative and that each relative whose name has been submitted to the agency or entity as a possible caretaker, either by himself or herself or by other persons, has been evaluated as an appropriate placement resource.

(2) No agency or entity that receives any state assistance and is involved in foster care placements may do either of the following:

(A) Deny to any person the opportunity to become a foster parent on the basis of the race, color, or national origin of the person or the child involved.

(B) Delay or deny the placement of a child into foster care on the basis of the race, color, or national origin of the foster parent or the child involved.

(b) Subdivision (a) shall not be construed to affect the application of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 and following).

(c) Nothing in this section precludes a search for an appropriate relative being conducted simultaneously with a search for a foster family.

**CALIFORNIA 2009 LEGISLATIVE SERVICE
2009 Portion of 2009-2010 Regular Session**

Additions are indicated by **Text**; deletions by *******. Changes in tables are made but not highlighted.

CHAPTER 261
A.B. No. 938
CHILDREN AND MINORS--RELATIVE CAREGIVERS AND FOSTER PARENTS--REQUIRED SOCIAL
WORKER INVESTIGATION

AN ACT to amend Sections 309 and 628 of the Welfare and Institutions Code, relating to children.

[Filed with Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 938, Committee on Judiciary. Relative caregivers and foster parents.

(1) Existing law authorizes a social worker to take a child who is at risk of abuse or neglect into temporary custody under specified circumstances. Existing law requires the social worker to investigate the circumstances of the child and the facts surrounding the taking of the child into custody. Existing law requires that the social worker immediately release the child to the custody of the child's parent or guardian, or other responsible relative, except under certain conditions. If the child is not released to the custody of his or her parent or guardian, the child is deemed to be detained, and a detention hearing must be conducted before the expiration of the next judicial day after a petition to declare the minor a dependent child of the juvenile court has been filed.

This bill would require a social worker, when a child is removed from the home, to conduct, within 30 days, an investigation, as specified, in order to identify and locate all grandparents, adult siblings, and other adult relatives of the child, in order to provide, except when that relative's history of family or domestic violence makes notification inappropriate, those persons with specified information, including that the child has been removed from the custody of his or her parents or guardians and an explanation of various options to participate in the care and placement of the child, as specified, and to report to the court at the initial petition hearing regarding that effort. The bill would require the State Department of Social Services to develop the written notice providing that information to relatives.

The bill would also require the Judicial Council to develop a relative information form, as specified. The form would provide information regarding the needs of the child, and would include a provision whereby the relative may request the permission of the court to address the court. The bill would require a social worker to provide that form, on and after January 1, 2011, to the adult relatives identified pursuant to the provision described above. By imposing new duties on social workers, the bill would impose a state-mandated local program.

(2) Existing law authorizes a peace officer to take a minor into temporary custody without a warrant and to deliver that minor to a probation officer under specified circumstances.

This bill would enact provisions similar to those described in paragraph (1) that would be applicable to minors who

are taken into temporary custody and delivered to a probation officer. The bill would impose new duties on probation officers, similar to those imposed upon social workers, as described above in paragraph (1), with respect to conducting an investigation to locate adult relatives and providing those relatives with specified information. These provisions would not, however, require probation officers to develop the relative information form or provide it to those relatives. By imposing new duties upon probation officers, this bill would impose a state-mandated local program.

(3) 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 309 of the Welfare and Institutions Code is amended to read:

<< CA WEL & INST § 309 >>

309. (a) Upon delivery to the social worker of a child who has been taken into temporary custody under this article, the social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The child has no parent, guardian, or responsible relative; or the child's parent, guardian, or responsible relative is not willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in his or her home or the home of a responsible relative.

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

(4) The child has left a placement in which he or she was placed by the juvenile court.

(5) The parent or other person having lawful custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code and did not reclaim the child within the 14-day period specified in subdivision (e) of that section.

(b) In any case in which there is reasonable cause for believing that a child who is under the care of a physician **and** surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved and is a person described in Section 300, the child shall be deemed to have been taken into temporary custody and delivered to the social worker for the purposes of this chapter while the child is at the office of the physician **and** surgeon or the medical facility.

(c) If the child is not released to his or her parent or guardian, the child shall be deemed detained for purposes of this chapter.

(d)(1) If an able and willing relative, as defined in Section 319, or an able and willing nonrelative extended family

member, as defined in Section 362.7, is available and requests temporary placement of the child pending the detention hearing, the county welfare department shall initiate an assessment of the relative's or nonrelative extended family member's suitability, which shall include an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs, and a consideration of the results of a criminal records check conducted pursuant to subdivision (a) of Section 16504.5 and a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home. Upon completion of this assessment, the child may be placed in the assessed home. For purposes of this paragraph, and except for the criminal records check conducted pursuant to subdivision (a) of Section 16504.5, the standards used to determine suitability shall be the same standards set forth in the regulations for the licensing of foster family homes.

(2) Immediately following the placement of a child in the home of a relative or a nonrelative extended family member, the county welfare department shall evaluate and approve or deny the home for purposes of AFDC-FC eligibility pursuant to Section 11402. The standards used to evaluate and grant or deny approval of the home of the relative and of the home of a nonrelative extended family member, as described in Section 362.7, shall be the same standards set forth in regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

(3) To the extent allowed by federal law, as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative extended family member meets all other conditions for approval, except for the receipt of the Federal Bureau of Investigation's criminal history information for the relative or nonrelative extended family member, and other adults in the home, as indicated, the county welfare department may approve the home and document that approval, if the relative or nonrelative extended family member, and each adult in the home, has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after the approval has been granted, the department determines that the relative or nonrelative extended family member or other adult in the home has a criminal record, the approval may be terminated.

(4) If the criminal records check indicates that the person has been convicted of a crime for which the Director of Social Services cannot grant an exemption under Section 1522 of the Health and Safety Code, the child shall not be placed in the home. If the criminal records check indicates that the person has been convicted of a crime for which the Director of Social Services may grant an exemption under Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal records exemption has been granted by the county based on substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child.

(e)(1) If the child is removed, the social worker shall conduct, within 30 days, an investigation in order to identify and locate all grandparents, adult siblings, and other adult relatives of the child, as defined in paragraph (2) of subdivision (f) of Section 319, including any other adult relatives suggested by the parents. The social worker shall provide to all adult relatives who are located, except when that relative's history of family or domestic violence makes notification inappropriate, within 30 days of removal of the child, written notification and shall also, whenever appropriate, provide oral notification, in person or by telephone, of all the following information:

(A) The child has been removed from the custody of his or her parent or parents, or his or her guardians.

(B) An explanation of the various options to participate in the care and placement of the child and support for the child's family, including any options that may be lost by failing to respond. The notice shall provide information about providing care for the child while the family receives reunification services with the goal of returning the child to the parent or guardian, how to become a foster family home or approved relative or nonrelative extended family member as defined in Section 362.7, and additional services and support that are available in out-of-home placements. The notice shall also include information regarding the Kin-GAP Pro-

gram (Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9), the CalWORKs program for approved relative caregivers (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9), adoption, and adoption assistance (Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9), as well as other options for contact with the child, including, but not limited to, visitation. The State Department of Social Services, in consultation with the County Welfare Directors Association and other interested stakeholders, shall develop the written notice.

(2) On and after January 1, 2011, the social worker shall also provide the adult relatives notified pursuant to paragraph (1) with a relative information form to provide information to the social worker and the court regarding the needs of the child. The form shall include a provision whereby the relative may request the permission of the court to address the court, if the relative so chooses. The Judicial Council, in consultation with the State Department of Social Services and the County Welfare Directors Association, shall develop the form.

(3) The social worker shall use due diligence in investigating the names and locations of the relatives pursuant to paragraph (1), including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives. Each county welfare department shall create and make public a procedure by which relatives of a child who has been removed from his or her parents or guardians may identify themselves to the county welfare department and be provided with the notices required by paragraphs (1) and (2).

SEC. 2. Section 628 of the Welfare and Institutions Code is amended to read:

<< CA WEL & INST § 628 >>

628. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding his or her being taken into custody and shall immediately release the minor to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the minor's welfare and one or more of the following conditions exist:

(1) The minor is in need of proper and effective parental care or control and has no parent, legal guardian, or responsible relative; or has no parent, legal guardian, or responsible relative willing to exercise or capable of exercising that care or control; or has no parent, legal guardian, or responsible relative actually exercising that care or control.

(2) The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable place of abode.

(3) The minor is provided with a home which is an unfit place for him or her by reason of neglect, cruelty, depravity or physical abuse by either of his or her parents, or by his or her legal guardian or other person in whose custody or care he or she is entrusted.

(4) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another.

(5) The minor is likely to flee the jurisdiction of the court.

(6) The minor has violated an order of the juvenile court.

(7) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnor-

mality.

(b) If the probation officer has reason to believe that the minor is at risk of entering foster care placement as defined in paragraphs (1) and (2) of subdivision (d) of Section 727.4, then the probation officer shall, as part of the investigation undertaken pursuant to subdivision (a), make reasonable efforts, as described in paragraph (5) of subdivision (d) of Section 727.4, to prevent or eliminate the need for removal of the minor from his or her home.

(c) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in subdivision (d) of Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while he or she is at the office of the physician or surgeon or that medical facility.

(d)(1) It is the intent of the Legislature that this subdivision shall comply with paragraph (29) of subsection (a) of Section 671 of Title 42 of the United States Code as added by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). It is further the intent of the Legislature that the identification and notification of relatives shall be made as early as possible after the removal of a youth who is at risk of entering foster care placement.

(2) If the minor is detained and the probation officer has reason to believe that the minor is at risk of entering foster care placement, as defined in paragraphs (1) and (2) of subdivision (d) of Section 727.4, then the probation officer shall conduct, within 30 days, an investigation in order to identify and locate all grandparents, adult siblings, and other relatives of the child, as defined in paragraph (2) of subdivision (f) of Section 319, including any other adult relatives suggested by the parents. The probation officer shall provide to all adult relatives who are located, except when that relative's history of family or domestic violence makes notification inappropriate, within 30 days of the date on which the child is detained, written notification and shall also, whenever appropriate, provide oral notification, in person or by telephone, of all the following information:

(A) The child has been removed from the custody of his or her parent or parents, or his or her guardians.

(B) An explanation of the various options to participate in the care and placement of the child and support for the child's family, including any options that may be lost by failing to respond. The notice shall provide information about providing care for the child, how to become a foster family home or approved relative or nonrelative extended family member as defined in Section 362.7, and additional services and support that are available in out-of-home placements. The notice shall also include information regarding the Kin-GAP Program (Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9), the CalWORKs program for approved relative caregivers (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9), adoption and adoption assistance (Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9), as well as other options for contact with the child, including, but not limited to, visitation. When oral notification is provided, the probation officer is not required to provide detailed information about the various options to help with the care and placement of the child.

(3) The probation officer shall use due diligence in investigating the names and locations of the relatives pursuant to paragraph (2), including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives.

(4) To the extent allowed by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), if the probation officer did not conduct the identification and notification of relatives, as required in paragraph (2), but the court orders foster care placement, the probation

officer shall conduct the investigation to find and notify relatives within 30 days of the placement order. Nothing in this section shall be construed to delay foster care placement for an individual child.

SEC. 3. 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.

CA LEGIS 261 (2009)

END OF DOCUMENT



CDSS

JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



ARNOLD SCHWARZENEGGER
GOVERNOR

December 29, 2009

ALL COUNTY LETTER NO. 09-86

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHILD WELFARE PROGRAM MANAGERS
ALL CHIEF PROBATION OFFICERS
ALL COUNTY JUVENILE COURT JUDGES
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: NOTIFICATION OF RELATIVES

REFERENCE: ASSEMBLY BILL (AB) 938 (CHAPTER 261, STATUTES OF 2009);
WELFARE AND INSTITUTIONS CODE (W&IC) SECTIONS 309, 319,
361.3 AND 628; FAMILY CODE (FC) SECTION 7950; PUBLIC LAW
(PL) 110-351

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

This All County Letter (ACL) is to advise county child welfare and probation departments of the requirement to provide notification to relatives of children being placed into out-of-home care. Enactment of AB 938, which becomes effective January 1, 2010, amends W&IC sections 309 and 628. These changes implement federal law (PL 110-351), which requires social workers and probation officers to exercise due diligence to identify and engage relatives and to provide notice to those relatives when a child is removed from their home. Provisions in AB 938 reinforce the requirement in FC 7950 that diligent efforts must be exercised in locating relatives when a child is in need of out-of-home placement. This policy underscores the importance of relative participation and support in all aspects of a child's life.

The changes to W&IC sections 309 and 628 require that within 30 days of a child's removal from the home, the county must exercise due diligence to conduct an investigation to identify and locate all grandparents, adult siblings and other adult relatives, including those suggested by the parents. Due diligence efforts shall include asking the child in an age-appropriate manner about relatives important to the child and obtaining information regarding the location of the child's adult relatives. In accordance with W&IC section 319(f)(3), parents are required to disclose to the social worker the names, addresses and any known identifying information of any maternal or paternal

relatives of the child. The W&IC section 319(f)(2) states that preferential consideration for placement is given to an adult who is a grandparent, aunt, uncle or sibling of the child. The social worker or probation officer shall provide written and oral notification to all adult relatives who are located, except when that relative's history of family or domestic violence makes notification inappropriate.

The contents of the notification shall include:

- (1) That the child has been removed from the custody of his or her parent(s) or guardian(s);
- (2) Information about providing care for the child while the family receives reunification services with the goal of returning the child to the parent or guardian;
- (3) How to become a foster family home or approved relative or nonrelative extended family member;
- (4) Additional services and supports that are available in out-of-home placements; information regarding the Kinship Guardianship Assistance Payment program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program for approved relatives, and Adoption Assistance Program. Charts containing details and comparisons of permanency options are available at the California Social Work Education Center (CalSWEC) website, http://calswec.berkeley.edu/CalSWEC/OtherTraining_b.html;
- (5) Options for contact with the child, including, but not limited to, visitation; and
- (6) Any options that may be lost by failing to respond.

The required written information is contained in the "Important Information for Relatives" (Attachment B). This required document is to be sent to all located relatives. A sample of a cover letter to relatives is also attached (Attachment A). Counties may develop their own cover letter as a county template in the Child Welfare Services/Case Management System (CWS/CMS) for the interim while a statewide template is being developed. The cover letter should contain the following core elements:

- (1) Letter to be sent on county agency letterhead;
- (2) The name and address of the relative;
- (3) The names of the child(ren) involved (multiple children may be covered in the same letter);
- (4) A statement that this may be their only notification if they fail to respond; and
- (5) Agency information to ensure that the relative can make contact with the appropriate county personnel.

For Probation Cases Only

When a minor is detained and the probation officer has reason to believe that the minor is at risk of entering foster care, the probation officer has 30 days to identify, locate and notify, in writing, all adult relatives located. When oral notification is provided by a probation officer, detailed information about the various options to help with the care and placement of the child is not required. If the probation officer did not conduct the identification and notification of relatives, but the court orders foster care placement, the probation officer shall conduct the investigation to find and notify relatives within 30 days of the placement order. Nothing in this instruction shall be construed to delay foster care placement for an individual child.

Each county welfare and probation department shall create and make public a procedure by which relatives of a child who has been removed from his or her parents or guardians may identify themselves to the department and be provided with the notices required by statute. This process may include use of an 800 number or an email address and may be added to the "Information for Relative" cover letter.

All oral and written contacts with relatives are to be documented in the CWS/CMS in the Client or Collateral notebook. The next CWS/CMS update (6.4 Release) will provide the ability to record the search and engagement efforts in the Collateral notebook. As relative search and engagement is an ongoing process, continually adding updated information of family relationships is essential to ensure that all children have the greatest chance to establish lifelong relationships with family and friends for care and support.

If you have any questions about this ACL, please contact the Kinship Care Policy and Support Unit at (916) 657-1858.

Sincerely,

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachments

c: County Welfare Directors Association of California
Chief Probation Officers of California

All County Letter No. 09-86
Page Thirty-eight

| | |
|---|---------|
| bc: Karen B. Gunderson, Branch Chief (CYPB) | 8-13-73 |
| Sharon A. DeRego, Bureau Chief (PPB) | 8-13-66 |
| Carole A. Minchew, Program Manager (KCPSU) | 8-13-66 |
| Bill Fuser, Program Analyst (KCPSU) | 8-13-66 |

CYPB Chron

[ACL 09-86 AB 938 Notification of Relatives.docx](#)

[Attachment A-Relative Cover Letter.docx](#)

[Attachment B-Important Information for Relatives.docx](#)

On County Letterhead

Date

Name of relative
Address

Re: Name of child(ren)

Dear Mr./Ms.:

I am a social worker for the child welfare services unit/probation officer for _____ County/Tribe. I am sending you this letter to let you know that proceedings have been started to remove (Child's Name) from his or her parent/guardian and may be/has been temporarily placed in foster care.

California law requires that when a child is removed from their home, relatives should be located, contacted and told about the child's removal and how the relative can choose to help the child during this difficult time. Because you are related to (Child's Name), I am sending you information about ways you can be of help, if you choose to, and how you can contact me about that. A few of the ways that you can help include being involved with helping (Child's Name) get back together with their parent, letting me know about other relatives who may want to help, visiting (Child's name) at their foster care home, or having (Child's Name) live with you. You may also provide information to the juvenile court verbally or in writing. You may have other ideas about how you can help that we can talk about.

I've enclosed some additional information about this situation and foster care. I would be very pleased to speak with you and answer any questions you have. Your reply to this letter does not obligate you in any way, but please know that this may be the only notification you receive, and failure to respond may result in the child's placement and care without your input. Please contact me or my supervisor at the numbers listed below as soon as you can. If you are calling long distance, you may make the call a "collect call."

Sincerely,

Child Welfare Worker/Probation Officer
Address
Telephone #
Email Address
Supervisor's Name
Telephone #
Email Address

Important Information for Relatives

Q1: I am the relative of a child who is being removed from his or her home. What should I do?

A1: If you want to be involved in helping the child or family, please contact the child's social worker, probation officer or their supervisor.

Q2: What can I do to help?

A2: Connections with relatives and family friends are important for all children, especially for children whose families are in crisis. You can give the family support and encouragement as the parents try to resolve the problems that led to the child being removed from them. You can also help by calling and visiting the child, inviting them to your home for holidays and other occasions, remembering birthdays, etc. You can assist the child's social worker or probation officer in locating other relatives and family friends who might be able to help the child and family, including those who live out of state. You may also want to consider having the child live with you until the child can safely return home.

Q3: What about the child's brothers and sisters?

A3: In most cases, the goal is to keep brothers and sisters together, but this is not always possible. Even if brothers and sisters have to live in separate homes, you may be able to help them keep in touch through visits and family events.

Q4: If I want the child to live with me, what do I need to do?

A4: You may request to be approved as a relative caregiver. Consider if you can provide for the child on a long-term basis if the child is not able to return to the home of his or her parents. By law, preferential consideration for placement of the child is given to adult grandparents, aunts, uncles, brothers and sisters. Certain requirements must be met:

- Criminal record clearances are obtained for all adults living in the home;
- All adults are screened for prior child abuse histories;
- The home must meet health and safety standards;
- There must be a demonstrated ability to care for and supervise the child; and,
- The relative must agree to ensure the child's personal rights are protected

Q5: There is someone in my household who has a criminal background. Does that mean the child can't live with me?

A5: No, you can still be considered. Some crimes may be exempted allowing for placement in your home. Each case is reviewed carefully. The social worker or probation officer will give you detailed options based on the findings of the case.

Important Information for Relatives

Q6: What kind of financial and social support will I receive if I choose to be a caregiver?

A6: Once a child is placed in your home you are eligible to apply for financial support which may be available either through the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program or foster care funding. The child's social worker or probation officer will do the following things:

- Assist you in obtaining financial and medical assistance;
- Work with you to access health and dental care for the child;
- Give you information on what to do and who to call if problems occur;
- Have contact with you and the child at least once a month;
- If eligible, provide a yearly clothing allowance for the child;
- Provide assistance with emergencies; and
- Help arrange parent-child visits, counseling and other services the child may need.

Q7: If my home is approved will the child get to live with me?

A7: Not necessarily. You and other relatives may be assessed and approved. This allows the county to have a group of interested relatives to choose from. Where the child will live will be carefully considered based on many factors. The approved home should meet the child's best interests without further disrupting the child's life and activities.

Things that must be considered are the child's proximity to the following:

- Their current school;
- Their friends, brothers and sisters, parents, other relatives; and
- The programs and activities the child currently participates in.

The caregiver's willingness to work with the social worker and the birth parents with the goal of reuniting the child with the birth family is another important factor when deciding about who will care for the child.

Q8: What about visits between the child and the birth parents? How does that work?

A8: The social worker/probation officer and the court will determine how often the child and parent can visit. Relatives and other caring adults may help in many ways to ensure that visits are safe and productive. They may be able to provide a safe space for visits, transport parents and the child to and from visits, and be a supportive familiar presence for the parent and child.

Important Information for Relatives

Q9: What happens if the child cannot return home?

A9: Living with a family permanently is the primary goal. When a child isn't able to return to the parents, the family the child is living with is usually considered first as a permanent family. You may be asked about becoming the child's legal guardian or adopting the child. Ongoing financial and medical assistance may be available through the Adoption Assistance Program, the Kinship Guardianship Assistance Payment program or CalWORKs. Information about these programs is available online at <http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/pub344.pdf> and from the child's social worker or probation officer.

Q10: I live out of state. How can I get involved?

A10: In some circumstances, a child may be placed with a relative out of state. The social worker or probation officer can discuss this option with you. You can also be supportive by maintaining contacts and visits.

Q11: If the child has American Indian heritage, how can I help the child maintain connections with his or her cultural heritage?

A11: The social worker/probation officer is required to ask all relatives about the child's connections with American Indian tribes so the child can benefit from any services available to American Indian children. If you can help answer questions about yourself and other relatives who may be enrolled members of American Indian tribes, please let the social worker/probation officer know.

Q12: If I want to give information to the court about the child, how do I do that?

A12: You may write a letter to the judge. The letter will also be seen by everyone in the case (parents, social workers, and lawyers). You can tell the court how you know the child, what things you have done with the child, and share your concerns about the child. Beginning in January 2011, there will be a Relative Information Form you can give to the court. You can ask the social worker or probation officer to give you this form, or you can ask for it at the court clerk's office.

Item SPR10-33 Response Form

Title: **Juvenile Law: Family Finding and Engagement** (adopt Cal. Rules of Court, rule 5.637; amend rules 5.502, 5.534, 5.690, 5.695, 5.708, 5.715, 5.720, 5.722 and 5.810; adopt Judicial Council forms JV-130, JV-130(A), JV-285, and JV-287)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

| |
|---|
| DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010 |
|---|

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.