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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re X.L., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

E.L.,

Defendant and Appellant.

E057690

(Super.Ct.No. RIJ1101095)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Jacqueline Jackson,  
Judge. Affirmed.

Donna P. Chirco, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Pamela J. Walls, County Counsel, and Julie Koons Jarvi, Deputy County Counsel,  
for Plaintiff and Respondent.

## I. INTRODUCTION

At a hearing held pursuant to Welfare and Institutions Code section 366.26,<sup>1</sup> the trial court terminated the parental rights of defendant and appellant E.L. (Mother) with respect to her son, X. On appeal, Mother contends the court erred: (1) by denying her request to change court order, commonly referred to as a section 388 petition; and (2) by failing to apply the beneficial parental relationship exception to adoption. We reject these arguments and affirm the court's orders.

## II. FACTUAL AND PROCEDURAL SUMMARY

### A. *Background*

In August 2011, X.'s father (Father) was living at his mother's (i.e., X.'s paternal grandmother's) home. Father had been out of prison for three months and was on parole. At that time, X. was three years eleven months old. He had been diagnosed with autism and mild mental retardation. Father said he had not been involved in X.'s life because he had been incarcerated and had questioned his paternity. After paternity had been established, he wanted Mother and X. to live with him at the paternal grandmother's house.

On August 13, 2011, Mother, X., and Father were at the paternal grandmother's home. The paternal grandmother kept a large German shepherd chained to a tree in her yard. She told a social worker it is "common knowledge and common sense" that the

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

dog is not friendly, and she keeps the dog to “protect the property with his very intimidating demeanor.” She said she had told Father on numerous occasions—and both parents on the day Mother and X. were visiting—that children were not allowed near the dog. (Mother and Father denied being so told.)

Mother and X. approached the dog to pet it and take pictures. The dog bit X.’s head, causing a severe head injury. Father called 911, but could not get through. Father then drove X. to the hospital.

A social worker interviewed Mother and Father at the hospital. The social worker noticed that Father had some developmental delays and difficulty processing information. Father said he has “[attention deficit/hyperactivity disorder] and a delay,” and receives social security benefits for his disability. The social worker later learned that Father is a client of the Inland Regional Center due to a diagnosis of mild mental retardation. He had a history of cocaine, marijuana, and alcohol use, but said he has been clean for four years.

Mother was 22 years old at the time. The social worker described Mother as having a “flat affect” throughout the interview and noted that Mother described traumas and abusive relationships in her life without any change in tone or facial expression. Mother said she had been in juvenile hall and group homes for most of her childhood. She had terminated her prior relationship with Father because of ongoing domestic violence.

Mother said she has been diagnosed with bipolar disorder and depression, and has been in and out of treatment since she was a preteen. She discontinued treatment because she did not like the medication's side effect, could not find a counselor she could connect with, or simply chose to stop. The social worker gave Mother a saliva drug test, which showed positive for opiates.

At the time of the dog bite incident, Mother had an open voluntary family maintenance case in San Bernardino County. That case arose after Mother had a friend use a knife to cut off a wart (which Mother called an extra finger) that grew from the side of X.'s pinky finger. The San Bernardino County social worker reported that Mother had been participating in parenting classes, but quit to live for a short time in Mexico. When she went to Mexico, she left X. in the care of her roommates.

In addition to the open San Bernardino County case, there were six other referrals to agencies in San Bernardino and Riverside Counties involving X. between September 2007 and August 2010. These referrals involved allegations of Mother's neglect, failure to support X., inability to care for X., physical abuse against X., and Mother's mental health. In each case, the allegations were determined to be unfounded.

*B. Detention, Jurisdiction, and Disposition (August 2011-May 2012)*

Following an investigation regarding the dog bite incident, plaintiff and respondent Riverside County Department of Public Social Services (DPSS) took the child into protective custody.

At a detention hearing, the court ordered X. detained from the parents and placed him in the temporary custody of DPSS. Supervised visits were to be as directed by DPSS. X. was placed in a foster home licensed for medically fragile children.

DPSS filed a dependency petition concerning X. alleging 12 counts under section 300, subdivision (b).<sup>2</sup> As subsequently amended, these counts are based upon the following facts: failure to protect X. from being attacked and injured by a dog (count b-1); the parents' history of domestic violence (count b-2); Mother's abuse of controlled substances (count b-3); Mother's history of mental health issues (count b-4); Mother's failure to follow through with care or treatment for X.'s diagnosis of autism (count b-5); Mother's failure to benefit from services provided to her, including mental health services (count b-6); Mother's criminal history (count b-7); Father's mental health issues (count b-8); Father's history of abusing controlled substances (count b-9); Father's failure to benefit from services provided to him (count b-10); Father's criminal history (count b-11); and Father's failure to provide for X. (count b-12).

While in foster care, X. initially talked with his parents daily by telephone. For the first week or so he would cry after the calls because he missed his parents. Later,

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<sup>2</sup> As relevant here, section 300, subdivision (b) provides for juvenile court jurisdiction when a child "has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, . . . or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse."

however, X. began to tell his caretaker he did not want to talk to the parents, and telephone calls were reduced to three times per week.

Weekly visits between the parents and X. went well. X. reportedly “appears to get along well with the parents and easily adjusts back to his placement when the visit is over.”

At a hearing held in October 2011, the court found the allegations in the dependency petition true. The determination of other issues was deferred pending the results of two psychological examinations of each parent.

In an addendum report filed in November 2011, DPSS reported that visits between the parents and X. “have gone well and the parents have been appropriate during visits.”

Mother underwent two psychological evaluations in November 2011. Dr. Edward Ryan reported that Mother has poor long term and short term memory and “is functioning in the borderline range of intelligence.” Test results indicated a moderate level of depression. Dr. Ryan stated that Mother has a “very passive and neglectful” “parenting style” and does not grasp the implications of rearing an autistic child. Dr. Ryan opined that Mother “has serious limitations regarding her ability to learn and to be responsible for the parenting/caretaker role of a child, especially a special needs child. . . . The indications are that no level of services has the potential of changing this situation appreciably, either now or in the distant future.” He recommended that services not be provided to Mother and that X. be placed for adoption.

In two interviews with another psychologist, Dr. Robert Sutor, Mother arrived wearing pajamas and slippers. Dr. Sutor noted that Mother indicated psychomotor retardation, impaired recent and remote memory, limited concentration, a distant mood, a flattened and constricted affect, and poor insight and judgment. Dr. Sutor stated Mother is likely experiencing some mental confusion and depression, and is prone to experience a psychotic process with delusions and hallucinations; “she would have some difficulty even caring for herself let alone for a child.” Dr. Sutor concluded that his test data did not “even hint at the most minimal level of reassurance regarding the ability of [Mother] to care for a child.” In his opinion, “it would be overtly and significantly detrimental to place a child in her care. Further, . . . she absolutely cannot benefit from reunification services now or in the foreseeable future.”

At the dispositional hearing, the court denied reunification services to the parents and set a hearing to be held pursuant to section 366.26.

In March 2012, an individual education program (IEP) assessment of X. was conducted. The IEP psychologist placed him in the “unlikely” range for autism and noted that he does not display any symptoms typically associated with autism. A speech and language pathologist similarly concluded that X. does not exhibit a speech or language disability or autistic-like behaviors. The psychologist determined that X. would “thrive” as long as he “is exposed to an academic setting and a safe, secure home life such as the prospective adoptive parent’s home . . . .” The IEP team recommended that X.’s eligibility be changed to “Other Health Impaired status.”

DPSS filed a status report concerning X. in May 2012. X.'s caregiver reported that visits between Mother and X. went well and were appropriate. However, Mother reportedly had "missed two visits" and, according to DPSS, "the quality [of the visits] is limited because [Mother] does not have the skills to redirect [X.] into a more positive pattern of behavior." X. is reported to be "happy," "thriving," and "achieving his developmental milestones" under the care of the prospective adoptive parents. X. told the social worker he wants to stay with his caregivers.

*C. Birth and Juvenile Dependency of A.; New Psychological Examinations (May 2012-August 2012)*

In May 2012, Mother gave birth to another son, A. The child was in the neonatal intensive care unit for two days due to respiratory distress and exposure to lice. DPSS took A. into protective custody and placed him in foster care.

Drs. Ryan and Sutor conducted new psychological evaluations of Mother in August 2012. Dr. Ryan stated that Mother "is functioning in the dull normal range of intelligence." Her test scores were "slightly higher than they were 9 months ago," but still below the average range. However, "[m]ost factors have remained the same over the past 9 months, that is, she continues to have difficulty with memory." Dr. Ryan said the test result "changes the picture from what it was at the time of [his] last evaluation to the point where [he] would consider her ability to benefit from services to be marginal, but not precluded." He concluded: "It remains my opinion that any child placed in her care, full time, would be at risk unless she establishes a support network and assistance in

knowing when and how to meet the usual and medical needs of a child. My opinion regarding her autistic child remains the same given that autism is a highly challenging condition for a parent and requires significant parenting skills which she doesn't possess and likely never will possess. However, with a child without significant challenges it is seen as possible that with significant assistance she could be a parent, but it is still my opinion that she is going to need significant assistance to do so. In short, I am changing my prior recommendation that the task is impossible, that it is possible. However, I still see her ability as being marginal."

Dr. Suitor noted that Mother "presented in considerable contrast to the first evaluation." She presented as someone with "a genuine interest in having her children returned and as if she would certainly benefit by reunification services." Dr. Suitor concluded that, "as long as [Mother] maintains her sobriety [and] has a stable living situation with at least minimal support towards caring for her children[,] she could well be able to care for her children independently, although it would be important to monitor her progress in that regard for some time."

The court subsequently adjudicated A. a dependent of the court, removed him from the parents' custody, and placed him with X.'s foster parents. The court ordered reunification services for Mother with respect to A.

*D. Section 388 Petition and Section 366.26 Hearing (September 2012-December 2012)*

In a status review report filed in September 2012 regarding X.'s section 366.26 hearing, DPSS reported that X. "appears to be bonding with his perspective [sic] adoptive

parents. He is a very happy little boy and the foster parents report no concerns with his behavior.” The caregivers “have been able to provide the child with the support and structure that he needs to adjust and thrive in out of home placement.” They are “committed to providing for his care in a warm, loving, and nurturing manner and they ensure that the child’s physical, developmental, emotional, and social needs are met on a consistent and ongoing basis.” DPSS reiterated that X. is thriving and wants to stay with the caregivers.

Regarding visitation, DPSS reported that Mother missed two more visits and she is usually late for other visits. The visits, however, “appear to go well, no concerns noted.”

In a preliminary assessment of the prospective adoptive parents, DPSS reported that X., at age five, is too young to fully understand the benefits of adoption. However, he did tell the social worker that he wants to stay with his prospective adoptive parents. DPSS further reported that he “appears to be very happy, bonded and attached to the prospective adoptive parents,” and the “prospective adoptive parents displayed genuine love and affection toward [X.] and were attentive to his needs. The prospective adoptive parents have been consistent parental figures in his life and he has established a strong sense of security and stability in his little life.”

On October 23, 2012, Mother filed a section 388 petition. She sought an order granting her reunification services and setting aside the section 366.26 hearing. She stated there has been a change in circumstances based upon, among other facts, the second round of psychological evaluations from Drs. Ryan and Suitor. Mother asserted

that the change would benefit X. based upon her strong bond with X. She also stated that she is receiving services for reunifying with A. (X.'s sibling), and it would be detrimental to place the siblings on "separate tracks."

The court ordered a hearing be held on the section 388 petition.

DPSS responded to the section 388 petition in an addendum report filed in November 2012. DPSS noted that although Mother has addressed portions of her case plan, "the risks are great for injury to the child if he were to be returned to [Mother's] care." The report further stated that X. "is thriving in the care of the current foster parents, and he is achieving his developmental milestones. [X.] is very bonded with his foster parents and refers to them as 'mom'. [X.] has all his needs met in his current placement and he stated he wants to stay with his current caregivers."

At the hearing on Mother's section 388 petition, Mother testified that she has participated in "the Mom's Program" and a parenting class. She said she has had no positive drug tests in the preceding five months and has been visiting X. twice each week, although she had missed some visits. X. runs to her at the start of visits, hugs her, and wants her to play with him. He calls her "Mommy." At the end of visits, he tells her to stay and appears to be sad. Mother testified that a caregiver told her that X. no longer needed to take classes at the Inland Regional Center.

Following argument, the court denied Mother's section 388 petition. The court acknowledged the new psychological reports and Mother's completion of parenting courses. However, the court explained that although "circumstances have changed," it

would not be in X.'s best interest to grant the petition because of X.'s "particular needs" and the stability he has achieved with his foster parents.

The court then proceeded to hold the section 366.26 hearing. Mother's counsel argued that the beneficial parental relationship and sibling relationship exceptions to terminating parental rights applied. The court found that X. was likely to be adopted, that adoption was in X.'s best interests, and that none of the statutory exceptions to terminating parental rights applied. The court then terminated parental rights with respect to X. Mother appealed.

### III. DISCUSSION

#### A. *Court's Denial of Mother's Section 388 Petition*

Section 388 allows the parent of a dependent child to petition the juvenile court to change, modify, or set aside a previous order of the court. Under the statute, the parent has the burden of establishing by a preponderance of the evidence that (1) there is new evidence or changed circumstances justifying the proposed change of order, and (2) the change would promote the best interest of the child. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317; § 388, subs. (a), (b).) The decision to grant or deny the petition is addressed to the sound discretion of the juvenile court, and its denial of the petition will not be overturned on appeal unless an abuse of discretion is shown. (*In re S.J.* (2008) 167 Cal.App.4th 953, 959-960 [Fourth Dist., Div. Two].)

"After the termination of reunification services, the parents' interest in the care, custody and companionship of the child are no longer paramount. Rather, at this point

‘the focus shifts to the needs of the child for permanency and stability . . . .’” (*In re Stephanie M.*, *supra*, 7 Cal.4th at p. 317, quoting *In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) Still, it is at this very point that “[s]ection 388 plays a critical role in the dependency scheme. Even after family reunification services are terminated and the focus has shifted from returning the child to his parent’s custody, section 388 serves as an ‘escape mechanism’ to ensure that new evidence may be considered before the actual, final termination of parental rights.” (*In re Hunter S.* (2006) 142 Cal.App.4th 1497, 1506; *In re Kimberly F.* (1997) 56 Cal.App.4th 519, 528.)

Regarding the first prong in the section 388 analysis, the court found that there had been a change of circumstances. On appeal, Mother argues the court’s finding was proper and DPSS does not appear to dispute the finding. We will therefore focus on the second prong—whether the requested change would be in X.’s best interest.

In making its finding regarding X.’s best interest, the court noted the diagnosis of autism and mild mental retardation and the length of time X. had “been stable at his foster-adopt home.” The court’s concern about Mother’s ability to deal with an autistic child is reasonable even after the second round of psychological assessments. Although the psychologists indicated improvement in Mother’s level of intellectual functioning, Dr. Ryan still believed that Mother did not “possess and likely never will possess” the parenting skills necessary for raising an autistic child. Even for a child “without significant challenges,” Dr. Ryan considered Mother’s parenting ability to be “marginal.”

Mother challenges the court's reliance on the autism diagnosis and points out that X. was not diagnosed with autism or mental retardation in connection with the more recent IEP assessment. Indeed, the IEP scores showed him to be in the "unlikely range" for autism. Therefore, Mother argues, X. did not "have any special needs in foster care." However, the discussion in the record regarding the IEP includes the qualification that "a formal cognitive assessment was not completed." Although the IEP arguably raises some doubt regarding the prior diagnosis, there is no evidence that the prior diagnosis was erroneous or no longer correct. Thus, while the court acknowledged that there might be evidence to the contrary, it concluded that the court "still has a diagnosis before it of autism and mild mental retardation."

Even if X. is not likely autistic, the IEP team still considered X. eligible for IEP services under the category, "Other Health Impaired." Although it is not clear from our record what this means, it suggests challenges in parenting X. beyond Mother's "marginal" ability to parent a child who has no significant challenges.

Moreover, the IEP psychologist indicated that her assessment that X. would be able to "thrive" was conditioned on X. having "a safe, secure home life *such as the prospective adoptive parent's home.*" (Italics added.) Thus, even if X. is no longer considered autistic, the evidence regarding the IEP (upon which Mother relies) supports the court's conclusion that X. will best be served by the stability available with the prospective adoptive parents.

The court's reliance on the length of time X. has been with the prospective adoptive parents is also supported by the record. At the time of the hearing on the petition, X. had been with the prospective adoptive parents for 14 months. The social worker reported that X. is "very happy, bonded[,] and attached to the prospective adoptive parents" and "has established a strong sense of security and stability in his little life." He is thriving under the care of the prospective adoptive parents and indicated to the social worker he wanted to continue living with them. Thus, while there is evidence that Mother continued to have a bond with X., there is also ample evidence to support the court's finding as to the stability the prospective adoptive parents could provide X.

Mother also argues that continuing to deny services to allow her to reunify with X. while providing her with reunification services as to A. puts the siblings on different legal tracks and creates the possibility that they will be separated. That is, Mother could reunify with A. while X. is placed for adoption. This argument, however, is speculative. Indeed, it is also possible that Mother, despite the receipt of services, has failed to reunify with A.<sup>3</sup> If so, and Mother is successful in this appeal and given services to reunify with X., the children would again be on separate tracks facing permanent separation—A. could be placed for adoption while Mother reunifies with X. Even if Mother's concern

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<sup>3</sup> Because of A.'s young age, Mother was entitled to reunification services regarding A. for six months following the dispositional hearing that took place on October 15, 2012. (§ 361.5, subd. (a)(1)(B).) Indeed, the court specifically informed Mother at that time that services "may not go longer than six months." That six-month time frame has long passed. Our record does not indicate what happened in A.'s dependency case.

about the possibility of separate tracks is justified, the court could reasonably conclude that it was in X.'s best interest to deny the requested change and to proceed with the section 366.26 hearing. We therefore affirm the court's ruling denying the section 388 petition.

*B. Failure to Apply the Beneficial Parental Relationship Exception to Adoption*

Mother next contends the court erred in finding that the beneficial parental relationship exception to adoption did not apply.

At a section 366.26 hearing, the juvenile court determines a permanent plan of care for a dependent child. (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53; *In re Casey D.* (1999) 70 Cal.App.4th 38, 50.) Adoption is the permanent plan preferred by the Legislature. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.) ““Only if adoption is not possible, or if there are countervailing circumstances, or if it is not in the child's best interests are other, less permanent plans, such as guardianship or long-term foster care considered.” [Citation.]” (*Id.* at p. 574.) “Once the court determines the child is likely to be adopted, the burden shifts to the parent to show that termination of parental rights would be detrimental to the child under one of the exceptions listed in section 366.26, subdivision (c)(1).” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297.) One such exception is the beneficial parental relationship exception under section 366.26, subdivision (c)(1)(B)(i).

The beneficial parental relationship exception applies when there is “a compelling reason for determining that termination would be detrimental to the child” because the

parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) To prove the existence of a beneficial parental relationship, the “parent must do more than demonstrate ‘frequent and loving contact[,]’ [citation] an emotional bond with the child, or that parent and child find their visits pleasant. [Citation.]” (*In re Derek W.* (1999) 73 Cal.App.4th 823, 827.) The parent must show that the “relationship promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.” (*In re Autumn H., supra*, 27 Cal.App.4th at p. 575.)

In reviewing challenges to a trial court’s decision as to the applicability of the parental relationship exception, we will employ the substantial evidence or abuse of discretion standards of review depending on the nature of the challenge. (*In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1315-1316.) We will apply the substantial evidence standard of review to evaluate the evidentiary showing with respect to factual issues. (*Id.* at p. 1315; § 366.26, subd. (c)(1)(B)(i), (v).) However, a challenge to the trial court’s determination of questions such as whether, given the existence of beneficial parental

relationship, there is a compelling reason for determining that termination of parental rights would be detrimental to the child “is a quintessentially discretionary determination.” (*In re Scott B.* (2010) 188 Cal.App.4th 452, 469.) We review such decisions for abuse of discretion. (*Ibid.*) In the dependency context, both standards call for a high degree of appellate court deference. (*Ibid.*; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.)<sup>4</sup>

The parties do not appear to disagree as to the threshold requirement of maintaining regular visitation and contact with X. Mother was scheduled to visit X. twice each week. With rare exceptions, she maintained that schedule. In general, it appears that the visits went well and no concerns were raised.

Mother focuses her argument on her relationship with X. She points out that X. spent the majority of his life with Mother; he was almost four years old at the time of the initial detention and had been in foster care for approximately 16 months as of the section 366.26 hearing. X.’s caregiver reported that after telephone calls with the parents during the first week or so of foster care X. cried because he missed them. Mother testified that X. still calls her “[m]ommy,” would give Mother hugs during visits, and tells her to stay when the visits end.

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<sup>4</sup> As the *In re Jasmine D.* court noted: “The practical differences between the two standards of review are not significant. ‘[E]valuating the factual basis for an exercise of discretion is similar to analyzing the sufficiency of the evidence for the ruling. . . . Broad deference must be shown to the trial judge. The reviewing court should interfere only “if [it] find[s] that under all the evidence, viewed most favorably in support of the trial court’s action, no judge could reasonably have made the order that he did.’ . . .” [Citations.]” (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.)

As noted above, however, Mother must show more than frequent and loving contact, an emotional bond, or that she and X. enjoyed their visits. (See *In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.) Even when a beneficial parental relationship exists, the court must have a compelling reason for determining that terminating the relationship “would be detrimental to the child.” (§ 366.26, subd. (c)(1)(B).) This requirement is illustrated by the two cases Mother primarily relies upon: *In re Amber M.* (2002) 103 Cal.App.4th 681 and *In re S.B.*, *supra*, 164 Cal.App.4th 289.

In *In re Amber M.*, there was evidence by a psychologist that the mother and the dependent child “shared ‘a primary attachment’ and a ‘primary maternal relationship’ and that ‘[i]t could be detrimental’ to sever that relationship.” (*In re Amber M.*, *supra*, 103 Cal.App.4th at p. 689.) One child’s therapist testified that the mother and child “had a strong bond and it was important that their relationship continue.” (*Ibid.*) A court-appointed special advocate (CASA) disagreed with the agency’s recommendation of adoption and testified that a second child loved and missed the mother and had difficulty separating from her. (*Id.* at pp. 689-690.) In reversing the juvenile court’s order terminating parental rights, the Court of Appeal noted that the “common theme running through the evidence from the bonding study psychologist, the therapists, and the CASA is a beneficial parental relationship that clearly outweighs the benefit of adoption.” (*Id.* at p. 690.)

In *In re S.B.*, a bonding study described the bond between the child and parent as “‘fairly strong’ or ‘moderate.’” (*In re S.B.*, *supra*, 164 Cal.App.4th at p. 295.) “During

the study, S.B. sat in [the father's] lap, played games and colored. [The father] was responsive to her requests. In the middle of coloring, S.B. said to [the father], 'I love you,' and he responded in kind. S.B. whispered and joked with [the father] and then spontaneously said, 'I wish I lived with you and Mommy and Nana.'" (*Ibid.*) At the hearing, the author of the study testified that "because the bond between [the father] and S.B. was fairly strong, there was a potential for harm to S.B. were she to lose the parent-child relationship." (*Id.* at p. 296.) The trial court found that the beneficial relationship exception did not apply and the Court of Appeal reversed. (*Id.* at p. 301.) The court explained that "the only reasonable inference [from the evidence] is that S.B. would be greatly harmed by the loss of her significant, positive relationship with [the father]." (*Id.* at pp. 300-301.)

The evidence in *In re Amber M.* and *In re S.B.* indicated not only a beneficial parental relationship, but that the children would be harmed, or suffer detriment, if the relationships were severed. By contrast, in this case there is no bonding study, therapist testimony, or other evidence indicating that terminating the parental relationship with Mother would be detrimental or harmful to X. Indeed, the evidence of the loving bond that has developed between X. and the prospective adoptive parents, the fact that X. indicated he wanted to live with the prospective adoptive parents, and the IEP study indicating that X. will thrive "as long as" he is in a "safe, secure home life such as the prospective adoptive parent's home," supports the court's conclusion that termination of

parental rights will not be detrimental to X. We therefore affirm the order terminating parental rights.

IV. DISPOSITION

The orders appealed from are affirmed.

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KING  
J.

We concur:

RAMIREZ  
P. J.

CODRINGTON  
J.