

Parentage Handbook Santa Clara Superior Court – Juvenile Division

Reasons for Establishing Parentage of a Child

Juvenile courts have discretionary powers to attempt to establish the child’s parentage in cases of probation supervision and a mandatory duty to do so in cases of placement. These are some of the crucial reasons for which the juvenile court should try to determine parentage when the court has jurisdiction:

I. Non-Placement Cases (Probation Supervision):

a. The Law Requires That Juvenile Courts Attempt to Establish Parentage:

i. California Rules of Court: The court “has a duty to inquire about” and, if not yet established, “to *attempt* to determine the parentage” of minors who are in front of the court due to petitions filed under Section 300, 601, or 602. Cal. Rules of Ct., Rule § 5.635 (emphasis added).

ii. The California Welfare and Institutions Code: If during a 300, 601, or 602 hearing the issue of paternity is raised, the court clerk has to notify Child Support Services and inquire regarding any superior court order or judgment addressing the issue. If a judgment exists Child Support Services must forward certified copies to the juvenile court; if parentage has not been determined, the juvenile court *may* determine parentage, and if it does, the court shall notify Child Support Services. Cal. Wel. & Inst. Code § 903.41.

b. Care, Custody and Control:

i. The court should attempt to determine parentage to ensure that the minor is under the care and control of the appropriate caregiver. Moreover, the minor should only be released to the care of either a parent, guardian, or responsible relative. Cal. Wel. & Inst. Code § 628.1.

c. Establishment of Financial Responsibilities:

i. Cost of the Program:

1. **General Programs:** If the minor is sent to a county paid program then, the minor, parents, or guardians “may be required to reimburse the agency for all or part” of the program’s cost. The obligation depends on the person’s financial ability to pay. Cal. Wel. & Inst. Code § 654.6; *see also* Cal. Wel. & Inst. Code §§ 652.5.

2. Juvenile Hall & Ranch: “The father, mother, spouse, or other person liable for the support of the minor, the estate of that person,” and the estate of the minor shall be liable for the costs of placement. Cal. Wel. & Inst. Code § 903(a). These persons are jointly and severally liable. *See id.* The charges shall be limited to the reasonable costs of supporting the minor, not to exceed \$30, and should not include incarceration, treatment, supervision for the protection of society, or rehabilitation of the minor. Cal. Wel. & Inst. Code § 903(b), (c)(1). “Costs of support” under this section should be understood as the costs incurred by the county in food, food preparation, clothing, personal supplies and medical expenses. Cal. Wel. & Inst. Code § 903(c). If the court-ordered child support exceeds the amount authorized by Section 903(b) the excess should be either: (1) saved for future needs, or (2) paid to the minor, with the caseworker’s approval. Cal. Wel. & Inst. Code § 903(b), (c)(1). The court shall evaluate the family’s financial ability to pay. Cal. Wel. & Inst. Code § 903(c). The county should not impose costs of medical care before exhausting any eligibility the minor may have under private insurance or Medi-Cal. Cal. Wel. & Inst. Code § 903(c)(2)

ii. Attorneys’ fees: The parents, spouse, other person liable for the support of the minor are liable for the costs of attorneys’ fees. The minor will not be interpreted to be liable for attorneys’ fees. Cal. Wel. & Inst. Code § 903.1; *see also In re Gary F.*, 226 Cal. App. 4th 1076, 1082 (2014).

iii. Restitution: If the minor is found liable and required to pay restitution, the parent or legal guardian will be found liable as well provided that the minor is unable to pay. Cal. Wel. & Inst. Code § 656(j), (k). (Penal Code sections mentioned are vandalism crimes). Parents who have “custody and control” of the minor are jointly and severally liable for restitution. Cal. Civ. Code §§ 1714.1(a), 1714.3. Custody of the minor shall not be limited to physical custody. *See Jamshid-Negad v. Kessler*, 15 Cal. App. 4th 1704, 1709-10 (1993) (ruling that physical custody was sufficient but not necessary to find the parents liable for the damages resulting from a minor’s trespassing crime while he was unsupervised in California).

2. Placement Cases:

a. The Law Requires a Parentage Inquiry in Placement Cases:

i. “At disposition . . . the court *shall* inquire of the mother and . . . of all presumed or alleged fathers.” Cal. Wel. & Inst. Code § 726.4(a) (emphasis added). The language introduced in Section 726.4(a) removes the court’s discretionary powers, available through the Cal. Rules of Ct., Rule § 5.635 and Cal. Wel. & Inst. Code § 903.41(b). Section 726.4(a) establishes a mandatory parentage inquiry when the minor is going to be placed. Consequently, the presence of a man claiming parental rights does not relieve the court of its duties, the court must follow the questionnaire presented with this protocol to satisfy the Code’s requirements. *See* Cal. Wel. & Inst. Code § 726.4(a). Notice shall be given to the alleged fathers that he is or could be the father of the child and that the minor is subject of proceedings under Section 602. The alleged father should be given notice that the proceedings could result in termination of parental rights. Cal. Wel. & Inst. Code § 726.4(b).

b. ***Care, Custody and Control by Extended Family:***

i. The court has discretion, in certain cases, to allow probation officers to place the minors with approved relatives or non-relatives. In such cases, the court would need to know the identity of the minor’s parents to find a finite number of extended family members with whom the court could recommend or approve placement. *See* Cal. Wel. & Inst. Code § 727(a)(3)(A).

c. ***Reunification:***

i. The court must monitor the well-being of the child while in placement and ensure that “everything reasonably possible is done to facilitate” the minor’s safe and early return to his or her home, or that an alternative permanent placement is found. This procedure is facilitated through reunification services. Establishing parentage allows the court to explore new groups of people who may qualify to care for the child. The child would be given the possibility to return to family members who may have been overlooked due to a failure to establish the child’s father. Moreover, the court would better evaluate who should have access to the services and ensure that the minor is returned to the appropriate home. *See* Cal. Wel. & Inst. Code § 727.2(a), (b).

d. ***Financial Responsibilities:***

i. **Cost of the Program:** In placement cases, parents and guardians are legally responsible for the support of the minor’s care while in placement when the minor receives Aid to Families with Dependent Children-Foster Care (AFDC-

FC). *See* Cal. Wel. & Inst. Code § 903(c)(4), 903.5. The placement agency shall notify the local child support agency, who will seek an order pursuant to Cal. Fam. Code § 17400 and the statewide child support guideline. *See* Cal. Wel. & Inst. Code § 903(c)(4), 903.5. Said order will help the agency determine the appropriate amount of child support a minor under Cal. Wel. & Inst. Code § 903(c)(4) should receive. *See* Cal. Wel. & Inst. Code § 903(c)(4), 903.5.

1. **The Process:** The placement agency shall submit within 30 days a declaration of costs and expenses to the child support agency. Cal. Wel. & Inst. Code § 903.4(b). Any declaration of costs and expenses will be deemed an application for assistance pursuant to Cal. Fam. Code § 17400. Cal. Wel. & Inst. Code § 903.4(c)(1). The child support agency may then, petition the court to issue an order to show cause. *See id.* Said order shall be enforceable as any other child support order. *See id.* The child's parent must be informed of the order and given the possibility to consult an attorney, appear in court and present evidence in his or her behalf. Cal. Wel. & Inst. Code § 903.4(c)(2) (explaining that he or she must "promptly" consult an attorney, so that his or her written response is "filed on time"). The court will require the parent to file an income and expense declaration, for the court to rule on the order to show cause. Cal. Wel. & Inst. Code § 903.4(d)(1). The court will retain jurisdiction to modify any order for support under Cal. Wel. & Inst. Code § 903.4. Cal. Wel. & Inst. Code § 903.4(g).
2. **Funds Collected:** The funds collected shall be dispersed in the following manner: (1) county funded placement programs shall receive 100% of the funds collected; (2) partially State or the Federally funded programs, shall receive the share distributed by the State Department of Social Services. Cal. Wel. & Inst. Code § 903.4. Cal. Wel. & Inst. Code § 903.6(a), (b).

ii. Attorneys' fees: The parents, spouse, other person liable for the support of the minor are liable for the costs of attorneys' fees. The minor will not be interpreted to be liable for attorneys' fees. Cal. Wel. & Inst. Code § 903.1; *see also In re Gary F.*, 226 Cal. App. 4th 1076, 1082 (2014).

iii. Restitution: If the minor is ordered to pay restitution, the parent or guardian, with joint or sole legal and physical custody and control, shall be presumed to be

jointly and severally liable with the minor for restitution, fines and penalties. The court shall consider the parent or guardian's inability to pay. The parent or guardian shall have the burden of showing said inability. Cal. Wel. & Inst. Code §§ 729.5(a)-(j) 730.7(a). Additionally, foster parents shall not be liable for restitution. Cal. Wel. & Inst. Code § 729.5(k). Parents who have "custody and control" of the minor are jointly and severally liable for restitution. Cal. Civ. Code §§ 1714.1(a), 1714.3. Custody of the minor shall not be limited to physical custody. *See Jamshid-Negad*, 15 Cal. App. 4th at 1709-10 (ruling that physical custody was sufficient but not necessary to find the parents liable for the damages resulting from a minor's trespassing crime while he was unsupervised in California).

Types of Parents

I. Presumed Parent

The law presumes that a person is the child's natural parent if one of the following is true, and either parent does not prove the court otherwise:

1. A child of wife cohabiting with her husband is conclusively presumed the child of the marriage, unless the husband is impotent or sterile, or there is an exception pursuant to Cal. Fam. Code § 7541 (DNA testing). Cal. Fam. Code § 7540.
2. The presumed parent and the child's natural mother are or have been married to each other and the child was born during the marriage or within 300 days after the marriage was terminated. Cal. Fam. Code § 7611(a).
3. The presumed parent and the child's natural mother attempted to marry each other in apparent compliance with the law, and either of the following is true: (1) If the attempted marriage is declared invalid the child is born within 300 days of its termination; OR (2) if the attempted marriage is declared invalid the child is born within 300 days of cohabitation. Cal. Fam. Code § 7611(b).
4. After the child's birth the presumed parent and the child's natural mother have married or attempted to marry, and although the marriage may be declared invalid, either of the following is true: (1) The presumed parent is named as the child's parent in the birth certificate; OR (2) the presumed parent is obligated to support the child under a written voluntary promise or court order. Cal. Fam. Code § 7611(c).
5. The presumed parent receives the child into his or her home and holds the child as his or her natural child. Cal. Fam. Code § 7611(d). Under California law the court may find a person to be a

legal parent, even when there is no biological relation between the child and the presumed parent. This doctrine is called “parentage by estoppel,” and it is set out to protect the interest of the child.

If parentage is maritally presumed, only the following people have standing to challenge the presumption: (1) mother; (2) the mother’s husband; (3) the presumed father; (4) the child. The State is concerned with the child’s well-being and does not allow third parties to disrupt a stable family unit with claims that may be unfounded. Cal. Fam. Code § 7646. Additionally, courts lacks authority to order a genetic test when the presumption of paternity arises under Cal. Fam. Code § 7540 and the person requesting the test has not achieved presumed father status over the child pursuant to Cal. Fam. Code § 7611. *See* Seiser & Kumli, Seiser & Kumli, *On California Juvenile Courts Practice and Procedure* § 2.60 (Matthew Bender 2014).

a. Genetic Testing

Genetic testing to challenge presumed parentage status is not permitted when parentage was established through marriage. *See* Cal. Fam. Code § 7646. Additionally, it has been held that biological fathers may not challenge a voluntary declaration of paternity signed by another man. *See generally In re Christopher M.*, 113 Cal. App. 4th 155 (2003); *see also In re William K.*, 161 Cal. App. 4th 1, 9 (2008). Biological paternity should not be considered a determining factor when establishing paternity, and the court should weigh the interests of the biological father in asserting a father/child relationship under Cal. Fam. Code § 7610(b) against those of the presumed father under Cal. Fam. Code § 7611(d) when making final a decision. *See In re P.A.*, 198 Cal. App. 4th 974, 981-82 (2011); *see also* Seiser & Kumli, Seiser & Kumli, *On California Juvenile Courts Practice and Procedure* § 2.60 (Matthew Bender 2014).

1. The court may request the alleged father to submit to genetic testing. The request may be suggested by a party in the action or may result from the court’s own initiative. However, this request may not unduly delay proceedings. *See* Cal. Fam. Code § 7551 (stating the law as applies to civil cases); *see also* Cal. Fam. Code § 7556 (explaining additional requirements that apply to § 7551 when during criminal proceedings).
2. Hospitals, child support agencies, welfare offices, and family court must facility genetic testing. Cal. Fam. Code § 7551.5. The test must be performed by a laboratory approved by the United States Secretary of Health and Human Services. Cal. Fam. Code § 7552.
3. The results must include a report with the following: A statement establishing the chain of custody, a statement establishing the laboratory’s procedures, among others. Cal. Fam. Code § 7552.5(a)(2)-(3).
4. If the test results prove that the alleged father is the biological father, the court is not obligated to set aside a voluntary declaration of paternity or a presumed father status under Cal. Fam. Code §

7611(d). *See* Cal. Fam. Code § 7648; *see also In re William K.*, 161 Cal. App. 4th 1, 7, 9 (2008). Genetic testing is only one of the factors the court must consider. The court should also evaluate the nature, duration, and quality of the relationship between the previously established father and the child, among others. *See* Cal. Fam. Code § 7648(c).

5. In order for the result from genetic testing to have legal effect and establish parentage, the court must enter a judgment pursuant to Cal. Fam. Code § 7612(d).

II. Biological Fathers

Biological parents are those whose biological paternity has been established, but fail to achieve presumed father status pursuant to Cal. Fam. Code § 7611. *See Adoption of Kelsey S.*, 1 Cal. 4th 816, 849 (1992). The court may make a determination of biological paternity in the following ways:

1. *Kelsey S. Fathers*: Unmarried biological fathers who “promptly come forward and demonstrate a full commitment to his parental responsibilities--emotional, financial, and otherwise,” but whose attempt to achieve presumed father status under Cal. Fam. Code § 7611(d) are frustrated by a third party. *Adoption of Kelsey S.*, 1 Cal. 4th at 849. In addition to assuming these parental responsibilities the unmarried father must seek custody of the child. *See Seiser & Kumli, Seiser & Kumli, On California Juvenile Courts Practice and Procedure* § 2.60 (Matthew Bender 2014). Currently there is a split of authority regarding whether a Kelsey father is entitled to the same rights as a statutorily presumed father. Division Five of the Second District Appellate Court has held that a Kelsey father has not achieved a presumed father status. *See In re Vincent M.*, 161 Cal. App. 4th 943, 957 (2008). As a result, while he has a right to notice and consideration for custody and reunification, he does not have an absolute right to placement. *See Adoption of Kelsey S.*, 1 Cal. 4th at 842. On the other hand, Division of One of the Second District Court held that a Kelsey father achieves a “quasi-presumptive status, equivalent to presumed parent status under section 7611.” *See In re M.C.*, 195 Cal. App. 197, 220 (2011) (explaining that fathers asserting Kelsey rights may qualify as presumed fathers based on their constitutional right to parent, which overrides contrary statutory decisions).
2. *Mere Biological Fathers*: The term refers to a “biological father who ha[s] done almost nothing to develop a relationship with his [child] either before or during dependency” and who has developed only a vague plan to care for the child. *See In re Sarah C.*, 8 Cal. App. 4th 964, 977 (1992). Caselaw seems to indicate that a biological father has the same right to seek custody and services as a *Kelsey S.* father has, so long as it is in the best interest of the child. Even though his involvement with the child was significantly less than that of a *Kelsey S.* father. *See generally In re A.S.*, 180 Cal. App. 4th 351 (2009); *see also Adoption of Kelsey S.*, 1 Cal. 4th at 842. The

rights of a mere biological father, on the other hand, can be terminated based solely on the child's best interest and without a finding of detriment or unfitness, necessary in the case of Kelsey fathers. *See Adoption of Kelsey S.*, 1 Cal. 4th at 849-50.

III. Voluntary Declaration of Paternity

Beginning in January 1, 1995, before an unmarried mother leaves a hospital, hospitals must secure a voluntary declaration of paternity (VDOP) from the mother and the man "identified by the natural mother as the natural father." Cal. Fam. Code § 7571(a). Consequently, after 1995, if a man's name appears on the child's birth certificate, the man was either married to the infant's mother or signed a VDOP at the time of the child's birth. A valid voluntary declaration of paternity must comply with the following requirements:

1. The declaration must be executed on a form created by Child Supportive Services, and said form must include a statement by the mother stating that the man who signed the form is "the only possible father" of the child. Cal. Fam. Code § 7574 (a), (b)(5). In addition, the form must include a statement by the father expressing he is "the only possible father" and "the biological father" of the child, and consenting to the "establishment of paternity." Cal. Fam. Code § 7574 (b)(6).
2. Additionally, the form must contain name and signature of the mother and father; name of the child; date of birth of the child; and name and signature of the person who witnessed the signing of the declaration. Cal. Fam. Code § 7574 (b)(1)-(4), (7).
3. Hospital staff must witness the declaration and forward it to the Department of Child Support Services within 20 days of signing. Cal. Fam. Code § 7571(a).
4. Only unmarried mothers may sign a voluntary declaration of paternity. Cal. Fam. Code § 7571(a); Cal. Fam. Code § 7572(b). In a married couple the husband is presumed the father of the child under Cal. Fam. Code § 7611(a), if the mother chooses to sign a voluntary declaration of paternity, said execution may rebut the presumption found in Cal. Fam. Code § 7611(a) and violate the husband's due process rights. *See Seiser & Kumli, Seiser & Kumli, On California Juvenile Courts Practice and Procedure* § 2.60 (Matthew Bender 2014).
5. There are no time restrictions limiting parents' ability to execute a voluntary declaration of paternity. Cal. Fam. Code § 7571(d). Parents who fail to complete the voluntary declaration of paternity at the hospital, at the time of the child's birth, may have a notarized form mailed to the Department of Child Support Services. *Id.* Local child support agencies must provide declarations without charge, social workers are allowed to act as witnesses and child welfare department staff must mail the declaration to the Department of Child Support Services. Cal. Fam. Code § 7571(f).
6. Voluntary declarations of paternity executed in other states must be given full faith and credit. Cal. Fam. Code § 7570.

7. A voluntary declaration of paternity is invalid if: (1) at the time it was signed the child had a presumed father under §§ 7540 or 7611(a), (b), or (c); OR the signing man was merely a sperm donor (the term applies when a licensed physician and surgeon or a licensed sperm bank collected the sample). *See* Cal. Fam. Code § 7613(b).

IV. Judgments of Parentage

The Juvenile Justice Court may well find a that there is a prior Judgment of parentage for the minor, often available easily in Court records. Possible proceedings where this has been done include:

1. There was a prior child support action for support of the child. The local child support agency files for support in most cases where AFDC or TANF has been expended for the support of the child. There will be a Judgment establishing parentage in the case before, or at the same time as, support or reimbursement is ordered. Child Support Courts also take cases where a parent has asked for help in establishing child support.
2. The parent has filed an action in Family Court for custody and or support of the child. This could be in a Parentage case or a Dissolution Case. The Court should have established parentage before issueing other orders
3. There has been a prior Juvenile Dependency case. The Juvenile Court routinely establishes parentage before ordereing reunification or other services to the parents.
4. The Probate Court has ordered a Guardianship. The Court will have determined if service of the parents is proper and therefore may have made a determination of parentage in order to do that.

V. Adoptive Parents

Adoptive parents have the same rights and obligations as biological parents. Couples who adopt special needs children may qualify for the Adoption Assistance Program (AAP). A special needs child must fall with one of the following factors: (1) age (three years of age or older); (2) race, ethnic background, color, or language; (3) physical, mental, or emotional disabilities; among other. AAP will cover the costs of certain programs (e.g. wrap around). *See Adoption Assistance Program Handbook (available at <http://www.sccgov.org/ssa/fosterca/fcchap37.pdf>)*. Adoptive parents show a parent-child relationship by presenting proof of a valid adoption. Cal. Fam. Code § 7610(b). Moreover, adoption agencies “to whom the child has been relinquished” or prospective adoptive parents are allowed to bring an action pursuant to Cal. Fam. Code § 7630(a) to assert the existence of a presumed parent child relationship under Cal. Fam. Code § 7611(a), (b), or (c).

VI. Caregivers

Caregivers who are not guardians are said to have made informal custodial arrangements. If the parent is available and cooperate with the caregiving process authorizations for medical procedures and educational decisions tend to be simple, as they are approved by the child's parent. However, since this is usually not the case, caregivers are encouraged to retain the following documents: A signed letter giving him/her permission to care for the child and make medical and educational decisions; the child's birth certificate; the child's Social Security card; and medical records available. A caregiver is also encouraged to get a Caregiver's Authorization Affidavit. The Affidavit allows the caregiver to enroll the child in school and make school related medical decisions, such as authorizing the administration of vaccines. Cal. Fam. Code § 6550(a). The Affidavit does not need to be signed by the parent, but the caregiver must make an effort to contact the parent and swear under oath said efforts were made. In some cases, because the caregiver will be responsible for the child for a long period of time, a more formal arrangement (e.g. guardianship) may be appropriate. *See Caring for Another Person's Child* at 8-12 (available at <http://www.publiccounsel.org/tools/publications/files/Caring-for-Anothers-Child-Manual-2010.pdf>); *see generally* Cal. Wel. & Inst. Code § 727.2(a)-(j); and *Caregiver's Authorization Form* (available at <http://www.saccourt.ca.gov/forms/docs/pr-023.pdf>)

VII. Legal Guardians

Legal guardians are those who were appointed by the court during proceedings consistent with the Cal. Prob. Code § 1510 or Cal. Wel. & Ins. Code §§ 366.26, 728. Informal proceedings between family members do not satisfy legal threshold, and are, therefore, invalid. The sections that allow individuals to obtain legal guardianship of a minor are discussed separately below.

1. *Guardianship under Cal. Prob. Code § 1510 (in relevant part):*
 - a. The Probation Code requires that a petition is filed to request a guardian appointed to the minor. Cal. Prob. Code § 1510(a).
 - b. The petition should include the following parties' names and addresses: (1) parents of the child; (2) person who has legal custody and person who cares for the child (if they are not the same); (3) relatives within the second degree; proposed guardian; and (4) the child's current custodian and the child's tribe, in case of an Indian child. Cal. Prob. Code § 1510(b)(1)-(3), (5)-(6).
2. *Guardianship under Cal. Wel. & Ins. Code § 366.26 (in relevant part):*
 - a. The Section allows the court to appoint guardian in cases when the child is a dependent of the juvenile court. Cal. Wel. & Ins. Code § 366.26(d). The court has discretion to reach this decision after reading and considering the assessment reports prepared pursuant to Cal. Wel. & Ins. Code §§ 361.5(g), 366.21(i), 366.22(b), and 366.25(b).

- b. The assessment should include the following information: (1) Amount and nature of the contact between the child and his or her parents and other family members; (2) “evaluation of the child’s medical, developmental, scholastic, mental, and emotional status;” (3) assessment of the prospective guardian (including criminal records and referrals for child abuse or neglect); (4) description of the relationship between the child and the prospective guardian (including degree of attachment and motivation for seeking guardianship), among others. Cal. Wel. & Ins. Code § 361.5(g) (B)-(E).
3. *Guardianship under Cal. Wel. & Inst. Code § 728 (in relevant part):*
- a. ***Termination or Modification of Existing Guardianship:*** The court has the power to terminate or modify an existing guardianship established under the Probate Code, or appoint a co-guardian or successor guardian. Cal. Wel. & Inst. Code § 728(a). If a recommendation is made by the probation officer to terminate or modify a guardianship under the Probate Code, or to appoint a co-guardian or successor guardian, the court shall order the appropriate county department, the district attorney, or county counsel to file the recommended motion. *See id.* The minor’s attorney and guardian also have the power to file the motion. *See id.* If the court makes the determination to modify or terminate a guardianship, the court shall give notice to the probate court that first established the guardianship. Cal. Wel. & Inst. Code § 728(b). The probate court will file the notice and with any other documents, and send a copy to all parties involved. *See id.* Moreover, the procedures to appoint the new guardian will be conducted pursuant to Cal. Wel. & Inst. Code § 366.26, except for subdivision (j) which will not apply. *See Cal. Wel. & Inst. Code § 728(d).*
- b. ***Establishment of New Guardianship:*** The court shall have the power to establish a new guardianship in certain cases: (1) once the minor is a ward of the Court, the probation officer supervising the minor may recommend that the court establish a guardianship and appoint a specific adult as the guardian; (2) a guardianship may be established as the minor’s permanent plan pursuant to Cal. Wel. & Inst. Code § 727(4)(b). Cal. Wel. & Inst. Code § 728(c). (3) the minor’s attorney may request that the Court appoint a guardian as a permanent plan or, if the minor’s attorney fails to file a motion to request this appointment of a guardian, the court has the power to appoint the district attorney or county counsel to pursue the recommendation. The court will set a hearing to consider the recommendation or motion, and will give notice to the minor’s parents and relatives. *See id.*

Note re guardianships. If a guardian is appointed at an early stage of the proceedings, the guardian may be responsible for various costs for the minor. A guardian established as a part of a permanent plan may be eligible for financial assistance to support the minor.

VIII. Individuals with No Parental Rights

The following individuals may have right to receive notices, but do not qualify for placement:

1. ***Alleged Fathers:*** A man who may be the father, but whose biological paternity has not been established, or has not achieved a presumed father status. *See In re Zacharia D.*, 6 Cal. App. 4th 435, 448 (1993). Alleged fathers are generally entitled to receive notice regarding most hearings. However, if the alleged father has relinquished the child or signed a denial of paternity and waiver of rights, no notice is required. Cal. Wel. & Ins. Code § 366.26.
2. ***Stepparents and Grandparents:***
 - a. ***Notice:*** Stepparents and grandparents have no right to receive notice of the hearings absent a guardianship appointment or formal adoption. However, grandparents should be given notice, and a possibility to address the court, if the court is considering terminating the child's parents' parental rights. Cal. Wel. & Inst. Code §727.31(a), (b)(2), (e).
 - b. ***Visitation:*** Stepparents and grandparents have a right to reasonable visitation, so long as said visitation is determined to be in the best interest of the child. Cal. Fam. Code § 3101(a).
 - c. ***Custody:*** Stepparents do not have custody rights and are not obligated to pay child support. *See In re Marriage of Goetz and Lewis*, 203 Cal. App. 3d 514, 517-18 (1988); *see also Clifford S. v. Superior Court*, 38 Cal. App. 4th 747, 752 (1995). Grandparents also have no custody rights absent a court guardianship appointment. *See generally Troxel v. Grandville*, 530 U.S. 57, (2000) (holding that if the government intervenes in parental decisions, when the parents are fit rents, it violates the parents' due process of law).
3. ***Parents whose rights have been previously terminated:***

Termination is usually done in the context of an adoption or as a possible permanent plan in a Juvenile Dependency action. These parents have no legal rights to notice, or to have the child placed with them and have to be treated as legal strangers. However, it is not unusual for a parent to become re-involved with a child as a teenager, or continue to be in the child's life in a relative adoption. The Court may wish to recognize the relationship and establish some other kind of legal relationship as a part of a Juvenile Justice proceeding. (Guardianship, caretaker, NREFM)

Judge Margaret Johnson,
Juvenile Justice, Santa Clara County Superior Court
Maria Rabinovitch, University of Santa Clara Law School, Intern.
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