

INCARCERATED PARENT CASES

Jurisdictional Issues

In re Sergio C. (1999) 70 Cal.App.4th 957 [by itself, a parent's history of criminal convictions will not support a finding of substantial risk (unless it falls within those included in section 355.1)]

In re S.D. (2002) 99 Cal.App.4th 1068 [the determination to be made under section 300, subdivision (g) is whether at the time of the jurisdiction hearing, the parent can make arrangements for the care of his/her child]

In re James C. (2002) 104 Cal.App.4th 470 [trial court appropriately found children to be described by sections (b) and (g) where children's living conditions were directly related to father's failure to provide due to his incarceration]

In re Anthony G. (2011) 194 Cal.App.4th 1060 [trial court erred in finding child described by section 300 (g) where evidence did not establish child was left "without any provision for support"]

Dispositional Issues

Welfare and Institutions Code § 361.5(e)

In re Brittany S. (1993) 17 Cal.App.4th 1399 [mere fact that a parent is incarcerated is insufficient to deny reunification services]

Edgar O. v. Superior Court (2000) 84 Cal.App.4th (2000) [incarcerated parent who has not yet been convicted or sentenced may still be denied family reunification services pursuant to section 361.5(e)]

In re Isayah C. (2004) 118 Cal.App.4th 684 [incarcerated, nonoffending father still entitled to placement under section 361(c) where he could make a short term plan for custody of the child]

In re V.F. (2007) 157 Cal.App.4th 962 [court required to do analysis under 361.2 as to whether it would be detrimental to place child with a noncustodial parent, despite the fact that the parent is incarcerated]

Right to be Present

Penal Code § 2625

In re Barry W. (1993) 21 Cal.App.4th 358 [parent has right to be present at hearing involving declaration of dependency or terminating parental rights]

In re Alexander B. (2002) 99 Cal.App.4th 1030 [parent's absence from section 366.26 hearing was error, but not prejudicial]

D.E. v. Superior Court (2003) 111 Cal.App.4th 502 [parent's right to be present does not outweigh 352 requirement that disposition occur within 6 months of detention]

In re Iris R. (2005) 131 Cal.App.4th 337 [parent does not have a right to be present at adjudication of an allegation pursuant to section 300, subdivision (g).]

Reasonable Efforts

42 U.S.C. § 671, subd. (15)

Welfare and Institutions Code § 366.21(e), (f)

Welfare and Institutions Code § 366.22

In re Dino E. (1992) 6 Cal.App.4th 1768 [Juvenile court should have extended services beyond 18-month date where incarcerated father was not provided reasonable services]

Elijah R. v. Superior Court (1998) 66 Cal.App.4th 965 [Services offered to incarcerated father were reasonable under the circumstances]

Mark N. v. Superior Court (1998) 60 Cal.App.4th 996 [Department cannot delegate to parent responsibility to identify services]

In re Maria S. (2000) 82 Cal.App.4th 1032 [case plan flawed from the outset where mother could not participate in services ordered while incarcerated and the social worker made no efforts to determine what services were available to mother at place of incarceration]

In re T.G. (2010) 188 Cal.App.4th 687 [parent's failure to keep Department apprised of whereabouts excused less than perfect efforts]

A.H. v. Superior Court (2010) 182 Cal.App.4th 1050 [no legislative intent of tolling timelines or extending FR to incarcerated parents]

Visitation

Welfare and Institutions Code § 361.5(e)(1)

Welfare and Institutions Code § 362.1(a)(2)

In re Precious J. (1996) 42 Cal.App.4th 1463 [Parent's incarceration did not excuse agency from facilitating visits under court order]

In re Jonathan M. (1997) 53 Cal.App.4th 1234 [distance between prison and child cannot be the sole factor in denying visitation or services to incarcerated parent]

In re Dylan T. (1998) 65 Cal.App.4th 765 [Denial of visitation between child and incarcerated parent cannot be based solely upon child's age, but must be based on clear and convincing evidence that visitation would be detrimental to the child]

Inmate Locators

- California State Prisons
 - Online Information
 - Requires individual's first and last name OR State prison number
 - <http://inmatelocator.cdcr.ca.gov/>
 - Information by Telephone (916-445-6713)
- Federal Bureau of Prisons
 - Federal Prisons
 - Requires individual's first and last name, age OR identifying number (FBOP, FBI or INS Number)
 - http://www.bop.gov/inmate_locator/index.jsp
 - Immigration & Customs Enforcement [ICE]
 - <https://locator.ice.gov>