



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

NOTICE

In re J.H. – filed November 26, 2007, ordered published December 20, 2007, Second District, Division One
Docket No: B198363

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B198363.DOC>

Child was detained due to parents' drug use and incarceration. Child was initially placed with paternal aunt, but moved to a foster home after aunt said she might not be able to continue caring for child, and the county agency found that there were persons with criminal records living in her home. County agency provided notice of initial hearing to father in jail. After his release, the agency did not have a current address for him, so all hearing notices were sent to his last known address. At the WIC 366.26 hearing, mother informed the agency that father was again incarcerated, the court granted a continuance, and the county agency contacted father and gave him notice. Father told the social worker that he was aware of the dependency case, but had not sought custody because he was incarcerated and might be deported. Father appeared at the continued 366.26 hearing, and his attorney argued that he had not received proper notice of the prior hearings. The court found no defect in notice, and terminated parental rights. Father appealed.

Affirmed. The notice of the initial hearing by certified mail, return receipt requested, was proper under WIC 291(e)(1) even though the county agency did not receive the return receipt from father. However, the county agency failed to notify father that the initial hearing was continued, and did not conduct a due diligence search before the subsequent hearings. If the agency had followed up with father's probation officer, jail records, or relatives, the agency might have obtained a current address for father or learned of his re-incarceration sooner. However, the notice errors were harmless beyond a reasonable doubt because father could not have done anything to preserve the placement with the paternal aunt, and could not have obtained custody of the child since he was transient or incarcerated during much of the case, did not have a home for the child, and was at risk of deportation. (MM).

WIC § 366.21(e)—CALCULATION OF TIME

In re Tonya M.,--filed December 20, 2007, Supreme Court
Docket No. S149248

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/S149248.DOC>

Minor was detained upon birth, when both he and mother tested positive for methamphetamine. A combined jurisdictional/dispositional hearing was held on November 28, 2005, at which the court found minor to be a dependent of the court, and ordered reunification services for mother. After numerous continuances, a contested 6-month review hearing (§ 366.21(e)) was held on August 16, 2006. The court found there was no substantial probability that minor would be returned to mother by November 28, 2006 (the section 366.21(f) review date), ordered reunification services terminated and set a section 366.26 permanency planning hearing for December 12, 2006. Mother filed a writ, arguing that in deciding whether reunification services should be continued, the juvenile court should consider a period of six months following the August 2006 6-month review hearing, i.e., the period through February 2007, instead of just considering the time remaining until the 12-month review hearing. In a published opinion the Court of Appeal denied relief. The Supreme Court granted review to resolve a division of authority among the districts.

Affirmed. In deciding at the six-month review hearing whether to continue or terminate services, the juvenile court should consider the likelihood of reunification within the period of time that remains until a potential 12-month review hearing, even if it is less than six months. (PB)

WIC § 388 PETITIONS

In re C.J.W. et al – filed December 11, 2007, Fourth Dist., Div. Two
Docket No. E043005

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/E043005.DOC>

Mother and father appealed separately from the juvenile court's order denying their section 388 petitions. Five children had previously been removed from the mother and adopted between 1994 and 2003. Two of those five children were father's. C.P. and C.J. were removed from the parents' care due to neglect and drug use. The juvenile court denied reunification services to the parents and set a 366.26 hearing. Parents filed 388 petitions alleging that they completed various programs. The juvenile court found no change in circumstances and no benefit to the children, denied the petitions, and terminated parental rights.

Affirmed. The juvenile court did not abuse its discretion; the parents did not make a sufficient showing that there were changed circumstances and that the requested modification would be in the children's best interest. The parents both had extensive histories of drug use and years of failing to reunify with their children. In addition, their recent efforts at rehabilitation were only 3 months old at the time of the 366.26 hearing. The appellate court also pointed out the internal inconsistencies of the JV-180 form and recommended it be reformed to avoid the problems that arose in this case. (Because of the ambiguity of the JV-180 form, the juvenile court ordered both that it would and that it would not hold a hearing on the 388.) (JC)

OTHER LEGAL DEVELOPMENTS

New or Revised Los Angeles County Department of Children and Family Services Policies of Significance –

For Your Information (FYIs):



- 07-38 Submission of the DCFS 280 When Temporarily Placing a Child in the Home of Relative or Non-Relative Extended Family Member

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0738DCFS280TempPlacementRev.doc>

This FYI was updated to inform CSWs that when temporarily placing a child in the home of a non-relative extended family member pending approval of the home, they should submit Form 280 "Technical Assistance Action Request" to ensure the placement is documented in DCFS' database and the form should ***not*** indicate it is a non-paid placement. (SA)

- 07-41 Mentoring Opportunities for Youth

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0741MentoringProgram.doc>

This FYI informs CSWs that DCFS will soon have a contract with community agencies to recruit, train, match, and supervise mentors for foster care youth and also explains the referral process. (SA)

07-42 Updating CWS/CMS On A Timely Basis

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0742DataInputintoCWSCMS.doc>

This FYI is intended to clarify the intent of the Workload Reduction Task Force and inform CSWs that a simplified system has been initiated by the Juvenile Court Services staff for inputting the results of each court hearing from the minute orders on a daily basis. (SA)

07-43 Use of Restraining Orders in Cases of Domestic Violence

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0743RestrainingOrderinDVcases.doc>

This FYI explains what restraining orders are and also when and why a parent should seek one in domestic violence cases. (SA)

07-44 New Relative And Non-Relative Extended Family Member
Approval Requirements

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0744RelativeApprovalAdamWalsh.doc>

This FYI advises CSWs that, pursuant to the Adam Walsh Child Protection and Safety Act of 2006, effective January 1, 2008, CSWs must check the child abuse and neglect registry of any state in which a prospective relative or non-relative extended family member or any other adult residing in the home has resided in the past five years if that state maintains a registry. (SA)

07-45 New Adoptive Homes Study Requirements

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0745AdoptiveHomeStudyAdamWalsh.doc>

This FYI informs CSWs that pursuant to the Adam Walsh Child Protection and Safety Act of 2006, effective January 1, 2008, *Adoption CSWs* must check the child abuse and neglect registry of any state in which a prospective adoptive parent or any adult residing in the home has resided in the past five years, if that state maintains a registry. (SA)

07-46 Cancellation of the JV-135, Notice of Involuntary Child Custody Proceedings for an American Indian Child

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0746INewCWANotice.doc>

This FYI informs CSWs that effective January 1, 2008, form ICWA-030 "Notice of Child Custody Proceedings for Indian Child" will replace form JV-135 "Notice of Involuntary Child Custody Proceedings for an Indian Child. (SA)

Procedural Guides:

0070-561.10 (REV) Live Scan And California Law Enforcement Telecommunications Systems

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007056110v1207.doc>

This procedural guide was revised with information about the web-based Criminal Clearance Tracking System (CCTS), and notes when DCFS may request criminal history information on individuals including parents, when they cannot request a criminal records check, and has information on conducting Live-Scan ten days after CLETS. (SA)

0070-548.15 Referring Children 0-36 Months Who are Involved In a Substantiated Referral to Regional Center For an Assessment

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054815CAPTAv1107.doc>

This procedural guide provides CSWs with guidelines on how to refer children under the age of 3 to Regional Centers for assessment. (SA)

00200-507.30 (REV) Court Reports for an Independent Adoption

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050730v1207.doc>

This procedural guide was revised with updated information on the procedure to follow to amend an adoption petition with discrepancies in the child's or petitioner's legal name, if the CSW is concerned with the petitioner's suitability, or if the caregiver has concerns regarding parent's request for return. (SA)

00200-508.20 (REV) Relinquishment and Consent Procedures For Parents Who Cannot Read English And/Or Any Other Language

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050820v1207.doc>

This procedural guide was revised with guidelines and updated contact information related to relinquishment and consent procedures for CSWs to help parents, who cannot read English and/or any other language, with translating forms and other information into their own language. (SA)

00200-508.14 (REV) Accepting the Statement of Understanding and Relinquishment Documents

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050814v1207.doc>

This procedural guide was updated with, among other non-substantive changes, information about the relinquishment procedure for detained, non-detained, and non-dependent children. (SA)

00800-507.20 (REV) Concurrent Planning and the Concurrent Planning Assessment (CPA)

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0080/008050720v1207.doc>

This procedural guide was updated with changes to concurrent planning redesign (CPR) and Phase II of CPR, including the procedure for assessing the prognosis for successful family reunification and completing an initial concurrent plan assessment. Also, Procedural Guide 0080-507.15 Concurrent Planning: Criteria for the Concurrent Plan Assessment (CPA) and 0080-507-05 Concurrent Planning: Benefits for Children, Families and Children's Social Workers were merged with this policy. (SA)

1200-500.81 (REV) Family Preservation Program Services As Part of the Welfare-to-Work Plan

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/1200/120050081V1207.doc>

This procedural guide was updated with the duties of the SAAMS Clerk and the Family Maintenance / Family Reunification Unit Clerk in making Family Preservation Referrals. (SA)

0300-312.05 (REV) Dual Supervision DCFS-Probation Cases

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030031205v1207.doc>

This procedural guide was updated with information about the WIC 241.1 Pilot Project in the Pasadena Delinquency Courts including the Multidisciplinary Team (MDT). (SA)

0300-311.05 (REV) Preparing the WIC 241.1 Joint Assessment Court Report Ordered by the Dependency Court

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030031105v1207.doc>

This procedural guide was updated with information for CSWs on the process of preparing the joint assessment report for cross-over youths. (SA)

0070-549.10 (REV) DCFS-Probation WIC 241.1 Joint Assessment Protocol

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054910v1207.doc>

This procedural guide was updated to include information about the role of the Multidisciplinary Team (MDT) that will prepare the WIC 241.1 joint assessment and make recommendations to the court, to explain situations in which an assessment may need to be filed, and the timeline for filing an assessment. (SA)

0600-520.00 (REV) Collaborating With Regional Center to Provide Services to Children/Youth

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0600/060052000RegionaCenterv1207.doc>

This procedural guide has been revised to include instructions for CSWs on how to document the fact that a child is receiving Regional Center Services in DCFS' database.
(SA)