



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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Written by: Martha Matthews (MM), Jenny Cheung (JC), Patricia Bell (PB) and Sophia Ali (SA)

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NEW DEPENDENCY CASE LAW

AUTO INSURANCE FOR FOSTER YOUTH; WIC § 11460

In Re Corrinie W. – filed Jan. 22, 2009, Ca. Supreme Court
Docket No. S156898

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/S156898.DOC>

Corrinie W. was removed from her mother's home at age 16, and placed with a family friend. At age 17, she was a high school senior, and completed driver's education, passed the driving test, and obtained a learner's permit. However, she could not obtain a driver's license because neither her mother nor her foster parents were willing to sign the application and assume liability. Corrinie filed a motion seeking to compel the county child welfare agency to pay for auto insurance for her. The juvenile court denied the motion. Corrinie appealed, and the court of appeal affirmed. The Supreme Court granted review.

Affirmed. WIC 11460 defines the costs of care and supervision of foster children as including “... food, clothing, shelter, daily supervision, school supplies ... liability insurance with respect to a child...” This general statute does not show a legislative intent to require the state DSS to include the cost of auto insurance in the foster care rate, nor to require county agencies to make such insurance available to foster children. The juvenile court could order the county agency to pay for auto insurance if necessary in a specific case under WIC 362(a) and 362.05, but Corrinie did not make any showing of a special, compelling need to be able to drive, and the court's refusal to make such an order was not an abuse of discretion. (MM)

ICWA

In re E.W. et al- filed Jan. 26, 2009, Fifth Dist., Div. Two

Docket No. E045896

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/E045896.DOC>

Children, P.W. and E.W., were detained from parents. Father indicated ancestry in the Choctaw tribe although he was not registered. The juvenile court determined ICWA might apply and the agency sent ICWA notices to the three identified Choctaw tribes and the BIA. Notices were sent out regarding E.W. only and were addressed generally to each tribe rather than the tribal chair or designated agent for service as required by ICWA. After receiving responses from two of the three Choctaw tribes stating E.W. was not eligible for membership, the county agency indicated in its reports to court that ICWA did not apply. At the WIC 366.26 hearing, the court found the children were adoptable and terminated parental rights. Mother appealed.

Affirmed. Although notice was not sent to the tribes regarding P.W., since both children have the same parents and tribal investigations determined E.W. is not an Indian child, it follows that P.W. is also not Indian and any error is harmless. Second, although California Rules of Court, rule 5.481(b)(4) requires that notice be sent to the tribal chairperson unless the tribe has designated another agent for service, where notice has been received by the tribe, errors or omissions in the notice are reviewed under the harmless error standard. Here, failure to address the notice to the tribal chair or designated agent was not prejudicial because two Choctaw tribes received and responded to the notice. Also, post judgment evidence shows that the Choctaw Nation of Oklahoma also eventually responded that the children are not Indian children. Third, a response from the BIA was not required before terminating parental rights because notice need only be given to the BIA if the identity or location of the tribe cannot be determined according to 25 USC §1912(a). Here, the Indian tribes were identified. Finally, although appellate courts have differing opinions whether or not the juvenile court must make an *explicit* finding that ICWA notice is proper and whether ICWA applies, this appellate court held that an *implicit* ruling is sufficient as long as the reviewing court is confident that the juvenile court considered the issue and an explicit ruling would definitely confirm the implicit one. Here, although the juvenile court did not make an explicit finding, the juvenile court's implicit ruling is sufficient. (SA)

OTHER LEGAL DEVELOPMENTS

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

For Your Information (FYIs):

09-01 Forms Posting Update

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2009/FYI0901FormsUpdate.doc>

This FYI is to notify staff of new/revised forms that were posted to LA Kids and to DCFS's database. (SA)

Procedural Guide:

0050-501.10 (REV) Child Abuse and Reporting ACT (CANRA): Who Must Report

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0050/005050110CANRAv0109.doc>

This procedural guide was updated to reflect that mandated reporters **are no longer allowed** to make a one-time automated written report on the form prescribed by the Department of Justice in lieu of the required phone call. In addition, Penal Code Section 11165.7 has been amended to add alcohol and drug counselors to the list of mandated reporters. (SA)

0300-306.30 (REV) Notice By Publication of Citation

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030030630V0109.doc>

This procedural guide was revised to reflect that CSWs are not to request that notice by publication be done in a foreign language newspaper unless ordered by the court. (SA)

0500-501.40 (REV) Release of Case Record Information Regarding a Child Fatality

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0500/050050140ChildDeathreportingv0109.doc>

This procedural guide was updated to reflect the passage of AB 2904 which allows county board of supervisors to receive and review certain information relating to the death of a child who had previously come to the attention of, or was under the supervision of, the county child welfare agency. The guide also specifies the procedure for doing so. (SA)

0600-506.00 (REV) Healthy Lifestyle Plan

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0600/060050600v0109.doc>

This procedural guide was revised to include instructions for staff to follow when a child's body mass index is not in the normal range, including formulating a healthy lifestyle plan. (A healthy lifestyle plan is a plan developed by a medical provider that assists the child in developing life long practices that encourages healthy behaviors, healthy food choices, and regular engagement in cardio-vascular activities.) (SA)

0900-511.12 (REV) Regional Center Rates for Dual Agency Children

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090051112RegionalCenterratv0109.doc>

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This procedural guide was revised to include information regarding the Regional Center supplemental rate, including when children qualify and the procedure for requesting it. It was also revised to clarify the public health nurse and D-rate Clinical Evaluator's roles and responsibilities, as well as clarify the training expectations for caregivers. (SA)

0900-511.21 (REV) Adoption Fee Determination Guide

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090051121AdptFeesv0109.doc>

This procedural guide was updated to reflect the change in fees for independent adoptions. (SA)

0900-520.10 (REV) Bus Passes/Tokens/Coupons Ordering

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090052010BusPassv0109.doc>

This procedural guide was revised to inform staff that when transportation fares are being requested, staff must indicated on form DCFS 63 whether the request is for a court ordered/case plan activity or a non- court ordered/case plan activity. (SA)

1200-501.20 (REV) Child Abduction And The Recovery of an Abducted Child

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/1200/120050120v0109.doc>

This procedural guide added updated information on the procedure for social workers to follow when a child has been abducted and when an abducted child has been found. It also has updated contact numbers. (SA)