



# Children's Law Center of Los Angeles

## ***“DEPENDENCY LEGAL NEWS”***

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### **NEW DEPENDENCY CASE LAW**

#### **WIC 366.3**

*In re R.N.* – filed October 20, 2009, Second Dist., Div. Seven

Docket No. B209458

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B209458.DOC>

Father appealed the juvenile court's order appointing the paternal aunt as child R.N.'s guardian and summarily denying his subsequent section 388 petition challenging the legal guardianship appointment. R.N. was born with a positive toxicology screen for cocaine and both parents had an extensive drug history. Parents were offered reunification services that were eventually terminated and R.N.'s grandparents were appointed her legal guardians. After the death of both grandparents, R.N.'s aunt filed a section 388 petition seeking to be appointed her guardian. The aunt's petition stated that the grandmother had nominated her as the child's guardian and that R.N. wanted to live with her. The aunt also asserted that it would be unhealthy and unsafe for R.N. to be raised by the father. Father opposed the petition arguing that he had rehabilitated his life, had been clean and resided with R.N. at the grandparents' house for the last 10 years, and had been involved in R.N.'s upbringing. The Department's response to the aunt's petition stated that when R.N. was living with father, the social worker investigated the home and found it “unkempt,” that R.N. reported father to have outburst, and that R.N. wanted to live with her aunt. At the contested 388 hearing, the juvenile court noted that because father had not filed his own 388 petition to obtain custody, the court could only rule on the aunt's 388 petition. The court granted the aunt's 388 petition, appointed her R.N.'s guardian, and terminated jurisdiction. The court noted that if father wished to contest its rulings, he needed to file his own 388 petition. Father subsequently filed a 388 petition seeking custody and termination of the aunt's guardianship which the juvenile court summarily denied.

Reversed and remanded. The appellate court found that while the trial court did not err in permitting a section 388 petition to be the vehicle for its determination concerning R.N.'s guardianship, the trial court did err in failing to offer father the consideration required by section 366.3, subdivision (f). The appellate court stated that section 366.3 is implicated not only by petitions to terminate a guardianship but by petitions to modify a prior guardianship order by appointment of a successor guardian. And when a change in guardianship is made, the dependency court must provide notice to parents whose rights have not been terminated, consider and evaluate possible custody solutions and consider whether to provide reunification services. Thus, father was entitled to participate, to be considered as R.N.'s guardian, and to be eligible to receive reunification services without the requirement of filing his own section 388 petition. (JC)

### **OTHER LEGAL DEVELOPMENTS**

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

##### **For Your Information (FYIs):**

09-49 MAT Summary of Findings Report

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2009/FYI0949MATSummaryofFindings.doc>

This FYI is to remind CSWs of the DCFS policy that the MAT Summary of Findings Report be incorporated into the court reports for submittal to court. (The MAT assessment is intended to identify any special needs a child may have and identify parental issues that place the family in danger of a lengthy separation. The information gathered for the MAT assessment will be used to determine the services that are most needed by the child and the most appropriate placement for the child while.) (SA)

09-56 Returning Reimbursement of Checks for Unprocessed Vital Records

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2009/FYI0956ReimbursementfeeVitalRecords.doc>

This FYI provides instructions to CSWs on handling checks that are returned from a State that is unable to process a request for a birth certificate. (SA)

##### **Procedural Guides:**

0070-548.05 (REV) Emergency Response Referrals Alleging Abuse in Out-of-Home

## Care Children Who are Under DCFS Supervision

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054805v1009.doc>

This procedural guide was revised a second time to direct DCFS staff to obtain ARA approval whenever closing a referral regarding an out-of-home caregiver when there is a prior history of three or more referrals or there were two prior referrals in the past 12 months regarding the caregiver. (SA)

0070-548.06 (REV) Emergency Response Referrals Alleging Abuse Regarding Children Residing in the Home of a Parent Who Are Under DCFS Supervision

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054806v1009.doc>

This procedural guide was revised a second time to direct DCFS staff to obtain ARA approval whenever closing a referral regarding the parent where there is a prior history of three or more referrals or there were two prior referrals in the past 12 months regarding that parent. In addition, this procedural guide was revised to require the completion of the Structured Decision Making Risk Assessment on all referral investigations. (SA)

0070-548.10 (REV) Disposition of the Allegations and Closures of the Emergency Response Referral

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054810v1009.doc>

This procedural guide was revised a second time to direct DCFS staff to obtain ARA approval whenever closing a referral without promoting it to a case when there is a prior history of three or more referrals or there were two prior referrals in the past 12 months. In addition, this procedural guide was revised to require the completion of the Structured Decision Making Risk Assessment on all referral investigations. (SA)

0100-510.25 (REV) Emergency Placement in a Foster Home or Group Home Shelter Care Facility

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010051025v1009.doc>

This procedural guide was revised to reflect the current process of placing a child in Emergency Shelter Care Foster Homes or Emergency Shelter Care Group Homes. (SA)

0100-525.10 (REV) Interstate Compact on the Placement of Children (ICPC)

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052510ICPCv1009.doc>

This procedural guide was updated to reflect a change in the mailing address for the State's Out-of-State Placement Policy Unit. (SA)

0900-511.10 (REV) AFDC-FC / GRI-FC

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090051110FCRatesv1009.doc>

This procedural guide was revised to reflect a 10 % reduction in FFA and Group Home foster care payments rate, which became effective 10/1/09. (SA)

1000-504.10 (REV) Case Transfer Criteria and Procedures

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/1000/100050410v1009.doc>

This procedural guide was revised to clarify the procedure for transferring cases from one social worker to another, including moves within a DCFS office, for youths 17 years of age and older. (SA)

E080-0586 Transferring Medi-Cal Services From DCFS to DPSS for  
Transitioning Youth

Link to procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E080/E0800586v1009.doc>

This procedural guide reflects DCFS' responsibilities when a child is no longer eligible for the Continuing Eligibility for Children Program but may still be eligible for Medi-Cal through a program administered by the Department of Public Social Services. Further, this procedural guide provides instructions for setting up the transitional packet for a Medi-Cal Program interdepartmental case transfer. (SA)