



PROMOTING PERMANENCE FOR FOSTER YOUTH

Assembly Bill 408, effective January 1, 2004 sets forth (in part) a series of reforms aimed at promoting and ensuring permanence through lifelong connections for all children in foster care.¹

I. INTENT AND GOALS OF AB 408

- Ensure that all children in foster care retain and/or establish relationships with important individuals in their lives;
- Promote permanency and stability by ensuring that no child leave the foster system without a lifelong connection to a committed, caring adult;
- Implement changes to the Welfare & Institutions Code by imposing new requirements on the court, the social workers and attorneys to assure permanence and stability for foster youth; and
- Assure that children 10 years of age or older receive notice of and have the right to attend their court proceedings.

II. REQUIREMENTS

To assure permanence for foster children, AB 408 imposes new requirements on social workers, the Courts and advocates.

A. The Child Welfare Agency/Social Worker

County social workers must not only identify “important individuals” for children, but also help maintain and nurture these relationships. In particular:

- The social worker shall ask every child who is 10 years of age or older and placed in a group home to identify any individuals other than the child’s siblings who are important to that child.
- The social worker may ask any child who is younger than 10 years of age the same questions as to “important individuals” and provide that information as appropriate.
- The social worker, consistent with the child’s best interests, must make efforts to maintain and nurture those relationships.

¹ AB408 also mandates that foster children have access to age and developmentally appropriate extra -curricular, enrichment and social activities. See WIC 362.05. An outline of those provisions is available from Lisa Romero at the Children's Law Center, (323) 980-1599, romerol@clcla.org.

- The social worker must document efforts to search for, identify, maintain, establish, and nurture a foster child's connections to important individuals.
- The social worker's report submitted to court must contain information regarding the identification of important individuals in the child's life, and an explanation of what efforts are being made to maintain these relationships.

B. The Courts

The Court must ensure that social workers are complying with AB408 and that these efforts are documented. In particular:

- The Court must determine if the placing agency (DCFS) has made reasonable efforts to maintain a child's relationship with individuals important to that child.
- This requirement applies to children 10 years or older residing in group homes.
- The "individuals" with whom relationships are to be identified, nurtured, and encouraged includes anyone other than the child's siblings and important to that child.
 - Caveat: The relationship and ongoing contact must be in the child's best interest.
- The Court should verify that these permanence issues are addressed in the reports and TILP case plans submitted to the court for each review hearing.
- The Court shall make any orders necessary and appropriate to enable the child to maintain and to facilitate these relationships with other individuals important to the child.
- The Court has the responsibility to assure that children 10 years of age or older have received notice of their court hearings and their right to be present. If a child is not present in court, the court shall inquire as to whether notice to the child was proper.

C. Advocates

Given the requirements and responsibilities set forth in AB408, it is incumbent upon advocates to assure that:

- The social worker makes the appropriate inquiries;

- All court orders necessary to nurture and maintain the child’s relationships are in place; and
- Written reports to the Court address these issues.
 - Note: It is equally important to keep in mind that relationships change as children grow and change. It is the social worker’s responsibility to continue to inquire and ensure that the relationships are appropriate and in place over time.

III. OTHER SIGNIFICANT CHANGES TO THE LAW

A. Termination Of Parental Rights

AB 408 amends WIC 391 to require the Court to make any appropriate order to enable the child to maintain important relationships when parental rights are terminated.

The county welfare department shall:

- Ensure that the child is present in Court unless the child does not wish to appear or the child’s whereabouts are unknown and the CSW has documentation to that effect;
- Submit a report verifying that the information, documents, and services that pertain to ongoing relationship with these important individuals have been provided to the child;
- Continue to assist in maintaining the relationships with individuals who are important to the child based on the child’s best interests;
- If the Court has identified adoption as the goal and there is no identified or available prospective adoptive parent, during the 180 days that the department is seeking adoptive parents, the CSW, to the extent possible, shall ask each child who is 10 years or older to identify any individuals who are important to the child and to identify potential adoptive parents;
- If a child has not been placed with a prospective adoptive parent at subsequent hearings, the report must identify individuals who are important to the child and actions necessary to maintain the child’s relationship with those individuals;
- The agency shall make efforts to identify any other individuals who are important to the child.

B. Legal Guardianship

If legal guardianship is identified as the permanent plan, all the provisions set forth above as to “Termination of Parental Rights” apply.

C. Emancipating Youth

- AB 408 requires the social worker to provide information to a dependent child who has reached the age of majority on maintaining relationships with individuals who are important to the child, and to verify in the report submitted to the court that this information has been provided;
- For a child who is 16 years of age or older, when appropriate, the case plan (TILP) shall include a written description of the programs and services that will help the child prepare for the transition from foster care to independent living; and
- The TILP/case plan shall be developed with the child and the individuals identified as important to the child, and shall include steps the agency is taking to ensure that the child has a connection to a caring adult.

D. Notice And The Child’s Right To Be Present

WIC 349 is amended and requires:

- Notice of all hearings be sent to children 10 years of age or older;
- That the notice state, and the child be made aware that he/she is entitled to be present in court for the hearing;
- That the child be represented by counsel; and
- If the child is not present at the hearing, the court shall determine whether the child was properly notified of his or her right to attend the hearing

E. Training Of Social Workers

AB 408 also requires training for social workers to allow them to implement its mandates and requires specific training on:

- The importance of maintaining relationships with individuals who are important to a child in out-of-home placement;
- Methods to identify those individuals, consistent with the child’s best interests;
- How to ask a child about individuals who are important; and

- Ways to maintain and support those relationships.