

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



March 7, 2006

ALL COUNTY LETTER NO. 06-02

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by
One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL COUNTY CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY LICENSING PROGRAM MANAGERS

SUBJECT: USE OF OCCASIONAL SHORT-TERM BABYSITTERS BY FOSTER
CAREGIVERS

REFERENCE: WELFARE AND INSTITUTIONS CODE SECTION 362.04, SENATE BILL
(SB) 358, (CHAPTER 628, STATUTES OF 2005)

The purpose of this All-County Letter is to advise all county personnel with responsibility for licensing or certifying a foster family home or approving a relative or nonrelative extended family member (NREFM) of the recent enactment of legislation that impacts those responsibilities/programs. **The new law does not apply to child daycare providers.**

Enactment of SB 358 added Section 362.04 of the Welfare and Institutions Code (W&IC). Effective January 1, 2006, the statute allows a caregiver to arrange for occasional short-term babysitting of a foster child without requiring the babysitter to undergo a health screening or cardiopulmonary resuscitation certification (CPR), or training. Additionally, SB 358 amended Health and Safety Code (H&SC) Section 1522(b) to exempt a short-term occasional babysitter from undergoing a criminal record background check.

Occasions for which short-term babysitting may be used include, but are not limited to, when the foster parent has a medical or other health care appointment, grocery or other shopping, personal grooming appointments, special occasions for the foster parent, foster parent training classes, school-related meetings (such as parent-teacher conferences), business meetings, adult social gatherings, or an occasional evening out by the foster parent.

By passing SB 358, the Legislature has recognized that previous statutory and regulatory requirements for temporary caregivers/babysitters (i.e., fingerprint and criminal record check, FBI check, Child Abuse Central Index check, CPR certification and health screening) can be barriers to the recruitment and retention of high-quality foster parents. Eliminating those barriers and allowing a caregiver to select a babysitter to provide occasional short-term care to a foster child should provide a more normalizing life experience for both the foster child and caregiver.

The new law requires a caregiver to use a **reasonable and prudent parent standard** in determining and selecting an appropriate babysitter for occasional **short-term use**. W&IC Section 362.04 defines the following terms:

“Caregiver” means any licensed or certified foster parent, approved relative caregiver, or approved nonrelative extended family member.

“Reasonable and prudent parent” or “reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the child’s health, safety, and best interest.

“Short-term” means no more than 24 consecutive hours.

Provisions of the statute apply only to occasional, short-term (less than 24 consecutive hours) babysitters and should not be interpreted to apply to respite care providers who are allowed to care for foster children for more than 24 consecutive hours.

Licensed caregivers may be cited if it is determined that there was a failure to follow the reasonable and prudent parent standard in determining whether to use a babysitter. Once the determination to utilize a babysitter is made, ALL caregivers must endeavor to provide the babysitter with the following before leaving the child with a babysitter for short-term care:

- ✓ Information about the child’s emotional, behavioral, medical or physical conditions, if any, necessary to provide care for the child during the time the foster child is being supervised by the babysitter;
- ✓ Any medication that should be administered to the foster child during the time the foster child is being supervised by the babysitter; and
- ✓ Emergency contact information that is valid during the time the foster child is being supervised by the babysitter.

When a complaint has been received and it is necessary to evaluate a caregiver's compliance with the requirements of W&IC Section 362.04, county licensing and relative/NREFM approval staff must determine whether the caregiver provided or made an effort to provide the babysitter with the aforementioned information. If it is determined that the caregiver did not provide or make an effort to provide the information, the county agency should respond in one of two ways depending on the caregiver's licensed/certified or approved status.

If the caregiver is **licensed or certified**, the caregiver should be cited under W&IC Section 362.04(d) and, as part of the Plan of Correction, be provided with suggestions for proper compliance. Additionally, it is strongly suggested that the county licensing worker contact the child's placement social worker regarding the incident to assist the social worker in evaluating the continued appropriateness of the child's placement.

Similarly, if the caregiver is **approved**, the caregiver should be informed of the requirements of the law and advised of the inappropriate conduct with suggestions for proper compliance. The reviewing county worker should document the incident in the child's case file. The county worker should contact the child's placement social worker regarding the incident to assist the social worker in evaluating the continued appropriateness of the child's placement.

Making careful and sensible parental decisions regarding the use of an occasional short-term babysitter that maintains the child's health, safety, and best interest, may be difficult for some caregivers. If approached by a caregiver regarding exercise of parental decision-making, county licensing and relative/NREFM approval staff may counsel the caregiver to consider the following:

- ✓ Consider the child's age, maturity, mental and physical health, developmental level, behavioral propensities and aptitude of the child and the ability of the babysitter to provide appropriate care.
- ✓ Weigh the foreseeable risks in leaving the child with a babysitter.
- ✓ Discuss their concerns with the child's social worker if the caregiver is unsure.

County licensing and approval staff should provide information about the new babysitter and prudent parent standard provisions of W&IC Section 362.04 as part of any orientation and training for new caregivers. Attached is a "Caregiver Information Sheet" containing information about the use of short-term babysitting and use of the reasonable

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and prudent parent standard that counties may use to orient new caregivers to the new statute. Established caregivers should also be informed as soon as possible in a manner conducive to efficient and timely county business practices.

The California Department of Social Services intends to promulgate regulations to implement W&IC Section 362.04, and will continue to keep county licensing and approval staff apprised of developments in this area. For questions on this subject related to county licensed caregivers, please contact Vincent Herrera, Manager, Children's Residential Policy Unit, at (916) 322-5502. For questions concerning this subject for approved relative/NREFM caregivers, please contact Carole Minchew, Program Analyst, Kinship Policy and Support Unit, at (916) 657-1858.

Sincerely,

Original Document Signed By:

JO FREDERICK
Deputy Director
Community Care Licensing Division

Original Document Signed By:

MARY L. AULT
Deputy Director
Children & Family Services Division

Attachment

CAREGIVER INFORMATION SHEET

USE OF OCCASIONAL SHORT TERM BABYSITTERS AND THE REASONABLE AND PRUDENT PARENT STANDARD

This Information Sheet is intended to give you information regarding new law which allows caregivers to arrange for occasional, short-term care of a foster child for periods not to exceed 24 hours using a reasonable and prudent parent standard. **The new law does not apply to child daycare providers.**

Recognizing that current law and regulations regarding the use of temporary caregivers (babysitters) created barriers to finding and keeping high-quality foster parents, the Legislature enacted a new law and amended existing law to eliminate some of those barriers in order to give a more normalizing life experience for the caregiver and foster child.

Effective January 1, 2006, new provisions contained in Section 362.04 of the Welfare and Institutions Code (W&IC) provides that a caregiver can use a short-term babysitter (meaning no more than 24 hours) when a caregiver needs to attend various activities, including, but not limited to:

- *a medical or other health care appointment*
- *grocery or other shopping*
- *personal grooming appointment*
- *a special event for the foster parent*
- *foster parent training classes*
- *school-related meetings (parent-teacher conferences)*
- *business meetings*
- *adult social gatherings*
- *an evening out.*

The new law exempts the babysitter from having to have a health screening, cardio pulmonary resuscitation (CPR) certification, or training. Current law was also changed to exempt short-term babysitters from having to undergo a criminal record background check.

The new law requires the caregiver to use a specific standard for determining and selecting appropriate babysitters for occasional short-term use. Caregivers must use a reasonable and prudent parent standard, which is defined as follows:

- *The standard characterized by careful and sensible parental decisions that maintain the child's health, safety and best interests.*

Making careful and sensible parental decisions regarding the use of an occasional, short-term babysitter that maintains the child's health, safety, and best interest can be difficult. Caregivers should think about these additional considerations:

- *The child's age, maturity, mental and physical health, developmental level, behavioral propensities and aptitude of the child and the ability of the babysitter to give the necessary, appropriate care.*
- *Weigh the foreseeable risks in leaving the child with a babysitter.*
- *If unsure about the appropriateness of leaving the child with a babysitter, discuss your concerns with the child's social worker.*

The new law requires that caregivers must make an effort to give the babysitter the following information before leaving the child with a babysitter for short-term care:

- *Information about the child's emotional, behavioral, medical or physical conditions, if any, necessary to provide care for the child during the time the foster child is being supervised by the babysitter;*
- *Any medication that should be administered to the foster child during the time the foster child is being supervised by the babysitter; and,*
- *Emergency contact information that is valid during the time the foster child is being supervised by the babysitter.*