

INITIAL STATEMENT OF REASONSBackground

These regulations implement new federal mandates contained in the Child and Family Services Improvement Act of 2006 [Public Law (PL) 109-288] which require states to provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. It also required the California Department of Social Services (CDSS) to develop a plan to meet this goal. The CDSS convened a workgroup of interested county staff and developed the plan. These regulations reflect the requirements in PL 109-288 as well as the outcome of the workgroup.

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 31-002(v)(1)(A)Specific Purpose

This definition has been amended to include foster family social worker, out-of-state social worker, and probation officer to the list of staff who can make a visit with a foster child.

Factual Basis:

PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. Program Information Notice (PI) 07-08 and Child Welfare Policy Manual, Section 7.3 both allow the state to “define who a caseworker is for the purposes of title IV-B provisions...” Accordingly, CDSS is modifying its definition of who can make a visit with a child to include those social workers employed by foster family agencies, out-of-state social workers, and probation officers. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that the broadest range of persons be included in those who can visit with the child.

Section 31-003(s)(1)Specific Purpose/Factual Basis:

This section is being added to include an existing form used as a placement contract between the county placing agency and a group home.

Section 31-003(s)(2)

Specific Purpose/Factual Basis:

This section is being added to include a new form used as a placement contract between the county placing agency and a foster family agency.

Section 31-003(s)(3)

Specific Purpose/Factual Basis:

This section is being added to include an existing form used as a placement contract between the county placing agency and a foster family home.

Section 31-003(s)(4)

Specific Purpose/Factual Basis:

This section is being added to include a new form used as a reporting form between the county placing agency and a foster family agency.

Section 31-003(s)(5) (renumbered from Section 31-003(s)(1))

Specific Purpose/Factual Basis:

This section is being renumbered to accommodate added forms in ascending order.

Section 31-003(s)(6) (renumbered from Section 31-003(s)(2))

Specific Purpose/Factual Basis:

This section is being renumbered to accommodate added forms in ascending order.

Section 31-003(s)(7) (renumbered from Section 31-003(s)(3))

Specific Purpose/Factual Basis:

This section is being renumbered to accommodate added forms in ascending order.

Section 31-003(s)(8) (renumbered from Section 31-003(s)(4))

Specific Purpose/Factual Basis:

This section is being renumbered to accommodate added forms in ascending order.

Section 31-075.3(b)

Specific Purpose

This section is being amended to include foster family agency social workers, out-of-state social workers, and probation officers to the list of contacts with a child which should be documented in the case record.

Factual Basis:

PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. PI 07-08 and Child Welfare Policy Manual, Section 7.3 both allow the state to “define who a caseworker is for the purposes of title IV-B provisions...” Accordingly, CDSS is modifying its definition of who can make a visit with a child to include those social workers employed by foster family agencies, those social workers from another state performing visits pursuant to the Interstate Compact on the Placement of Children (ICPC), and probation officers. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that the broadest range of persons be included in those who can visit with the child. Once these visits are made, they must be documented in the case record. Accordingly, this section is amended to include these visits.

Section 31-075.3(s)(9)

Specific Purpose

This section is added to include a new form which should be included in a case record.

Factual Basis

PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. PI 07-08 and Child Welfare Policy Manual, Section 7.3 both allow the state to “define who a caseworker is for the purposes of title IV-B provisions...” Accordingly, CDSS is modifying its definition of who can make a visit with a child to include those social workers employed by foster family agencies. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that the broadest range of persons be included in those who can visit with the child. In order for foster family agency social workers to be included in the definition of a caseworker, an agreement must be signed with the agency that they will meet new and continuing federal requirements. There is no current Agency-Foster Family Agency Agreement, most counties utilize the Group Home Agreement when placing with Foster Family Agencies. In order to meet the new federal requirements, it was necessary to develop a new form. This form was developed in conjunction with the county workgroup as well as the California Alliance of Child and Family Services (an advocacy group for Foster Family Agencies).

Section 31-075.3(s)(10)

Specific Purpose/Factual Basis

This section is renumbered to accommodate the addition of a new section.

Section 31-206.242

Specific Purpose

This section is being deleted in order to comply with new federal mandates.

Factual Basis:

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. In order to achieve this goal, CDSS must discontinue the visit exceptions currently allowed in regulations at 31-320. Section .242 is being deleted as the exceptions to be documented elsewhere.

Handbook Sections 31-320.11 through .114

Specific Purpose/Factual Basis:

These handbook sections are being deleted and added as section 31-320.5 through .59.

Section 31-320.312(a)

Specific Purpose

This section is being amended to remove verbal reports as an option for reporting visits.

Factual Basis

PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. These visits must be inputted to Child Welfare Services/Case Management System (CWS/CMS) and then reported annually to the U.S. Department of Health and Human Services (DHHS). In order to ensure that all visits that are completed are actually documented, the CDSS is requiring written reports from social services staff.

Section 31-320.4

Specific Purpose

This section is being added to require that the majority of caseworker visits occur in the child's foster home/placement.

Factual Basis

PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. It also mandated that more than 50% of those visits occur in the child's foster home/placement. This section implements that requirement.

Section 31-320.41

Specific Purpose

This section is being added to mandate that caseworkers visit children in private whenever possible.

Factual Basis

PL 109-288, Section 7, mandated that States develop plans for "the content and frequency" of caseworker visits. In developing its plan, CDSS decided that privacy was essential for a quality caseworker visit and is, therefore, including this requirement.

Sections 31-320.5 through .59

Specific Purpose

These sections are being added to define the purpose and content of a caseworker visit.

Factual Basis

These sections are being moved from former handbook section 31-320.11 through .114 and updated. PL 109-288, Section 7, mandated that States develop plans for "the content and frequency" of caseworker visits. These sections mandate what should be done at each caseworker visit with a child.

Sections 31-320.6 and .61 (renumbered from Sections 31-320.4 and .41)

Specific Purpose/Factual Basis

These sections are being renumbered to accommodate the addition of new sections.

Section 31-320.611 (renumbered from Section 31-320.411)

Specific Purpose/ Factual Basis

This section is being amended to use more exact language and renumbered to accommodate the addition of new sections.

Section 31-320.611(b) (renumbered from Section 31-320.411(b))

Specific Purpose

This section is being amended to clarify that the child must have lived in the same placement for six months prior to a foster family agency social worker being delegated responsibility for monthly visits.

Factual Basis

Section 31-320.411(d)(2) is being deleted but required that a child be in a stable placement for 12 months before visit exceptions were permitted. That section has been deleted, but county caseworkers must ensure a visit is stable before delegating responsibility for monthly visits to foster family agency social workers. A minimum of six months is necessary to ensure stability.

Section 31-320.611(c) through (d) (renumbered from Section 31-320.411(c) through (e))

Specific Purpose

These subsections are being amended to comply with new federal mandates regarding caseworker visits. Including, subsection (d) is deleted in its entirety and replaced with subsection (e), which is being renumbered to (d) and amended to clarify that written reports are required from caseworkers at least monthly. It also clarifies that these visits must be recorded in CWS/CMS.

Factual Basis

PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. PI 07-08 and Child Welfare Policy Manual, Section 7.3 both allow the state to “define who a caseworker is for the purposes of title IV-B provisions...” Accordingly, the CDSS is modifying its definition of who can make a visit with a child to include those social workers employed by foster family agencies. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that the broadest range of persons be included in those who can visit with the child. In order for foster family agency social workers to be included in the definition of a caseworker, an agreement must be signed with the agency that they will meet new and continuing federal requirements. In addition, the CDSS must ensure that the foster family agency social worker is qualified to perform visits by ensuring they meet the minimum qualification in Community Care Licensing (CCL) regulations (Title 22, Section 88065.3). There is no current Agency-Foster Family Agency Agreement, most counties currently utilize the Group Home Agreement when placing with Foster Family Agencies. In order to meet the new federal requirements, it was necessary to develop a new form. This form was developed in conjunction with the county workgroup as well as the California Alliance of Child and Family Services (an advocacy group for Foster Family Agencies). This form is referenced in this section. Further, PL 109-288, Section 7, mandated monthly caseworker visits to children in foster care. These visits must

be inputted to CWS/CMS and then reported annually to the U.S. Department of Health and Human Services. In order to ensure that all visits that are completed are actually documented, CDSS is requiring written reports from social services staff and input into CWS/CMS.

Sections 31-320.412 through .412(d)

Specific Purpose:

These sections are being deleted to comply with federal mandates regarding caseworker visits.

Factual Basis:

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. In order to achieve this goal, CDSS must discontinue the visit exceptions currently allowed in regulations at 31-320. Accordingly, these sections are being deleted.

Sections 31-320.612 through .613 (renumbered from Sections 31-320.413 and .414)

Specific Purpose/Factual Basis:

These sections are being renumbered to reflect deletions of previous sections and to accommodate the addition of new sections.

Section 31-320.7 (renumbered from Section 31-320.5)

Specific Purpose

This section is being renumbered to accommodate the addition of new sections and amended to clarify which staff must meet the minimum visit requirements.

Factual Basis

PL 109-288 mandated monthly visit requirements that must be completed by a caseworker. This section is being modified to clarify that this section applies to county social worker/probation officers.

Section 31-320.71 (renumbered from Sections 31-320.51 and .52)

Specific Purpose/Factual Basis

These sections are being combined to amend and make the section more clear, and renumbered to accommodate the addition of new sections.

Section 31-320.711 (renumbered from Section 31-320.53)

Specific Purpose

This section is renumbered to accommodate the addition of new sections and amended to clarify that the section applies to the county social worker/probation officer and to clarify duties.

Factual Basis

PL 109-288 mandated monthly visit requirements that must be completed by a caseworker. This section is being modified to clarify that this section applies to county social worker/probation officers. In addition, language is being added to clarify the social worker/probation officers duties when a child's whereabouts are unknown. It is not enough that the social worker document that the child's whereabouts are unknown, they must actually attempt to locate the child and document those attempts.

Section 31-320.712 (renumbered from Section 31-320.54)

Specific Purpose/Factual Basis

This section is renumbered to accommodate the addition of new sections.

Sections 31-320.6, .61, .62, and .7

Specific Purpose

These sections are being deleted to reflect new federal mandates and replaced by the renumbering of previous sections.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. In order to achieve this goal, CDSS must discontinue the visit exceptions currently allowed in regulations at 31-320. Accordingly, these sections are being deleted.

Section 31-505.1

Specific Purpose/Factual Basis

This section is being amended to correct incorrect cross references.

Sections 31-505.123(a)(i)

Specific Purpose

This section is being added to reflect new federal mandates.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. In order to achieve this goal, CDSS must ensure that even those children placed outside of the county which has placement responsibility for the child are visited monthly. This section is added to clarify that if the receiving (host) county accepts responsibility for providing courtesy supervision, this includes meeting the monthly visit requirement.

Sections 31-505.123(b)

Specific Purpose

This section is being amended to reflect new federal mandates.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. In order to achieve this goal, CDSS must ensure that even those children placed outside of the county which has placement responsibility for the child are visited monthly. This section is added to clarify that if the receiving (host) county accepts responsibility for providing courtesy supervision, this includes meeting the monthly visit requirement and sending reports on those visits conducted with the child. Periodic is changed to quarterly to ensure that reporting gets done timely.

Sections 31-505.123(e)

Specific Purpose

This section is being added to reflect new federal mandates.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. In order to achieve this goal, CDSS must ensure that even those children placed outside of the county which has placement responsibility for the child are visited monthly. Other sections of this regulations package have been added to

clarify that if the receiving (host) county accepts responsibility for providing courtesy supervision, this includes meeting the monthly visit requirement and sending periodic reports on those visits conducted with the child. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that all visits conducted with the child are documented in the CWS/CMS system so that they are then reported to DHSS. Accordingly, this section is added to include documentation of all receiving county social worker visits with the child in CWS/CMS.

Section 31.510.39

Specific Purpose

This section is added to reflect new federal requirements.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. Child Welfare Policy Manual, Section 7.3, states that the monthly visit requirements of PL 109-288 also apply to out-of-state placements. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that all visits conducted with the child are documented in the CWS/CMS system so that they are then reported to DHSS. Accordingly, this section is amended to include documentation of all social worker visits by the ICPC worker with the child in CWS/CMS.

Sections 31-510.434(b)

Specific Purpose

This section is being amended to reflect new federal mandates.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. Child Welfare Manual Policy Manual, Section 7.3, states that the monthly visit requirements of PL 109-288 also apply to out-of-state placements. Accordingly, this section is being amended to make it clear that the receiving state should inform California of its visits with the child.

Section 31.510.49

Specific Purpose

This section is added to reflect new federal requirements.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. Child Welfare Policy Manual, Section 7.3, states that the monthly visit requirements of PL 109-288 also apply to out-of-state placements. Because the state will be penalized heavily for failing to meet monthly visit requirements, it is essential that all visits conducted with the child are documented in the CWS/CMS system so that they are then reported to DHSS. Accordingly, this section is amended to include documentation of all social worker visits by the ICPC worker with the child in CWS/CMS.

Section 31.510.9 and .91

Specific Purpose

These sections are added to reflect new federal requirements.

Factual Basis

PL 109-288, Section 7, mandates that states provide caseworker visits to children in foster care on a monthly basis. It set a mandatory goal that 90% of children in foster care be visited monthly by the year 2011. Child Welfare Policy Manual, Section 7.3, states that the monthly visit requirements of PL 109-288 also apply to out-of-state placements. Because California is a member of the ICPC, the state is required to meet these requirements with respect to the children placed by other states inside California. Accordingly, this section is amended to mandate that counties perform these functions for children placed in California by other states and to provide the necessary documentation to the sending state.

b) Identification of Documents Upon Which Department is Relying

Child and Family Services Improvement Act of 2006 (PL 109-288), Section 7
Child Welfare Policy Manual, Section 7.3
Welfare and Institutions Code 361.2
Program Instruction 07-08

c) Local Mandate Statement

These regulations implement new federal mandates contained in PL 109-288 which require states to provide caseworker visits to children in foster care on a monthly basis. PL 109-288 set a mandatory goal that 90 percent of children in foster care be visited monthly by the year 2011.

At this time, it is unknown what fiscal impact these new and revised federal mandated regulations will have on CDSS, local agencies, or school districts. The CDSS does not anticipate an impact on small business.

d) Statement of Alternatives Considered

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Private Persons or Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting private persons or businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response

(To be provided following public hearing)