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REASON FOR THIS TRANSMITTAL

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

July 14, 2017

ALL COUNTY LETTER NO. 17-65

TO: ALL COUNTY CHILD WELFARE DIRECTORS  
ALL TITLE IV-E AGREEMENT TRIBES  
ALL ADMINISTRATIVE LAW JUDGES  
ALL JUDICIAL COUNCIL

SUBJECT: JUVENILE COURT FINDINGS OF DUE DILIGENCE BY SOCIAL WORKERS IN IDENTIFYING, LOCATING AND NOTIFYING A DEPENDENT CHILD'S RELATIVES; ASSESSING RELATIVES FOR PLACEMENT OF A DEPENDENT CHILD

REFERENCE: [SENATE BILL \(SB\) 1336](#) (CHAPTER 890, STATUTES OF 2016); WELFARE AND INSTITUTIONS CODE (W&IC) SECTIONS [309](#), [358](#), [361.3](#), [366.26](#) AND [16519.5](#); FAMILY CODE SECTION [7950](#)

The purpose of this All County Letter is to inform county child welfare departments of a new requirement placed on county juvenile courts by [SB 1336](#) (Chapter 890, Statutes of 2016), and to reiterate to counties statutory requirements concerning the assessment of relatives of a dependent child who make a request that the child be placed with them.

**Identifying, Locating and Notifying Relatives**

The W&IC section [309\(e\)\(1\)](#) requires that when a child is removed from his or her home due to abuse or neglect, the social worker must, within 30 days, conduct an investigation to identify and locate the child's grandparents, adult siblings and other adult relatives of the child. The social worker is also required, within 30 days of the child's removal, to notify all located relatives (except those known to have a history of family or domestic violence) in writing, and (if appropriate) orally, of the child's removal, and to provide information related to becoming a caregiver for the child. These requirements are not affected by SB 1336 in any way.

In addition to the statutorily-required identification and notification of relatives, counties are encouraged, whenever feasible, to concurrently use this process to identify individuals who are not related to the child but who may potentially serve as permanent

connections. This includes, in particular, persons who are already a part of the child's life (i.e. non-relative extended family members).

Previously, the statute did not expressly require the juvenile court to ensure that a social worker had conducted the investigation specified by W&IC section 309(e)(1). This requirement was added to W&IC section [358\(b\)](#) by SB 1336. Effective January 1, 2017, the juvenile court must, during the dispositional hearing for a dependent child, make a finding that the child's social worker has exercised due diligence in identifying, locating and notifying the child's relatives. New statutory language also lists several relative-finding practices which the court may consider in determining whether the social worker exercised due diligence:

- Asking the child, in an age-appropriate manner and consistent with his or her best interest, about his or her relatives.
- Obtaining information regarding the location of the child's relatives.
- Reviewing the child's case file for any information regarding his or her relatives.
- Telephoning, emailing, or visiting all identified relatives.
- Asking located relatives for the names and locations of other relatives.
- Using Internet search tools to locate relatives identified as supports.

It is critically important for counties to note that **the list of practices above is not all-inclusive**. These are merely selected examples of evidence of due diligence. The juvenile court retains wide latitude when making a finding of due diligence on the part of the social worker. A juvenile court judge may choose to consider all or some of these practices, and may also consider other factors which are not specified in statute. Counties may consider the outreach methods listed above as best practices for family-finding and should use these practices in conjunction with any other strategies the county has developed to identify, locate and engage relatives.

### **Relative's Request for Placement**

The W&IC section [361.3\(a\)](#) requires that preferential consideration be given to a request for placement by a relative of a dependent child and lists criteria to be used when assessing whether placement with a relative is appropriate. The W&IC section 361.3(b) states that when more than one relative makes a request for placement, each relative must be considered and evaluated based on the criteria listed in W&IC section 361.3(a). Further, W&IC section 361.3(c)(2) lists the particular relatives who are given preferential consideration for placement, but should not be construed to limit which relatives should be assessed pursuant to W&IC section 361.3(a) upon request.

Counties are reminded that relative assessments are not, by statute, limited to a particular timeframe prior to the Termination of Parental Rights (TPR). However, counties are only required to give preferential consideration to a relative who makes a placement request the first time the request is made and an assessment completed. The only exception to this is when the county is considering a change in placement. In that circumstance, in accordance with W&IC section 361.3(d), the county must again give preferential consideration to each relative who has made a request for placement and who has not been found to be unsuitable. Relatives who are given preferential consideration are adults who are a grandparent, aunt, uncle or sibling. If a relative of a dependent child makes a request for placement at any time prior to TPR or the plan of adoption is ordered by the court, and a placement change of the child is being considered, then the relative preference for consideration must be again applied. Family Code section 7950 addresses the need for counties to continue searching for and assessing relatives after reunification services have been terminated as long as the child has not been placed for adoption, and requires that the court find that the agency has made diligent efforts to locate an appropriate relative and (if a relative is located) evaluate whether that person is an appropriate placement.

Effective January 1, 2017, all new relative home placements must meet Resource Family Approval (RFA) standards; therefore, counties should consider the likelihood that a relative will be able to meet those standards when evaluating the factors identified in W&IC section 361.3(a). But counties are reminded that there is a process to place with a relative, either on an emergency basis or based on a compelling reason, prior to full RFA approval pursuant to W&IC section [16519.5\(e\)](#). Counties are also required to provide relatives with information about the process to become a resource family in the community in which they reside. However, the fact that a relative has met RFA standards does not mean that a child must be placed with that relative; county agencies retain placement decision-making authority, subject to oversight by the juvenile court; neither the implementation of RFA nor the enactment of SB 1336 change this longstanding practice.

As with any other potential change of placement the social worker should consider the totality of the circumstances, including but not limited to weighing the possible merits of a placement change, including the preference to place with certain relatives, against the benefits of the current placement and permanency needs of the youth. Ultimately, the social worker must assess if moving the child from a non-related foster home to placement with a relative would be in the best interest of the child. Additionally, counties are reminded that a relative who comes forward to request placement must be considered even if the child is already placed with another relative. However, in such a case, the stability and benefits of the child's current relative placement should be given significant weight in comparing the appropriateness of the two relatives. If the county chooses not to place with the relative who requests placement, the county is strongly

encouraged (but not required) to provide the relative with notification—in writing if feasible—regarding their placement decision. The relative may grieve this decision through the county’s grievance process.

If a relative makes repeated requests for placement, and no change in placement is being considered, the county is not required to give consideration to the subsequent requests, once an initial assessment has been made. However; a county is not prohibited from reconsidering a renewed request for placement from a relative. For example, if the relative’s (or child’s) circumstances have changed, it may be appropriate and in the child’s best interests to reconsider the relative. If the county determines that it would be beneficial to re-assess a relative who has made a previous request for placement, it may do so.

Finally, counties are reminded that the relative assessment requirements of W&IC section 361.3 apply only until the court has approved a permanent plan for adoption or parental rights have been terminated. Subsequent to TPR, W&IC section [366.26\(k\)](#) requires that the adoption application of a dependent child’s current caregiver be given preference over any other application if the county determines that the child has substantial emotional ties to the caregiver, and that removal would be seriously detrimental to the child’s emotional well-being.

### **Contacts**

If you have any questions regarding this letter, please contact the Foster Caregiver Policy and Support Unit at (916) 651-7465.

Sincerely,

### ***Original Document Signed By:***

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