

August 12, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 22-63

The purpose of this All County Letter is to provide guidance to counties regarding the recent passage of [Assembly Bill 841 \(Chapter 98, Statutes of 2021\)](#). This bill amended Welfare and Institutions Code [300 § \(b\)](#) by ensuring that a child will not be found to be a person described by this subdivision solely due to the failure of the child's parent or alleged parent to seek court orders for custody of the child.



KIM JOHNSON
DIRECTOR

CALIFORNIA HEALTH & HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

August 12, 2022

ALL COUNTY LETTER NO. 22-63

TO: ALL COUNTY WELFARE DIRECTORS
ALL EMERGENCY RESPONSE STAFF
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL CHIEF PROBATION OFFICERS

SUBJECT: ASSEMBLY BILL 841: DEPENDENT CHILDREN

REFERENCE: [ASSEMBLY BILL 841 \(CHAPTER 98, STATUTES OF 2021\)](#);
[WELFARE AND INSTITUTIONS CODE SECTIONS 300; 361](#);
AND [361.2](#);
[ALL COUNTY LETTER NO. 18-98](#)

The purpose of this All County Letter (ACL) is to provide guidance to counties regarding the recent passage of [Assembly Bill \(AB\) 841 \(Chapter 98, Statutes of 2021\)](#). This bill amended [Welfare and Institutions Code \(WIC\) § 300 \(b\)](#) to specify that a child will not be found to be within the jurisdiction of the Juvenile Court solely due to the failure of the child's parent or alleged parent to pursue court orders seeking custody of the child. The provisions of AB 841 are effective January 1, 2022.

BACKGROUND

The Child Welfare Services (CWS) system is designed to protect children from maltreatment and to ensure the safety of children. The criteria that are used to determine whether or not a child needs protection via Juvenile Court intervention is outlined in [WIC § 300 \(a-j\)](#). When a county CWS agency finds that child maltreatment has occurred, they may petition the Juvenile Court to take jurisdiction over a child based on one or more of these WIC sections. Juvenile Court may adjudge a child to be a dependent of the court pursuant to [WIC § 300](#), including when the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness as a result of the failure or inability of their parent or guardian to adequately supervise or

protect the child, or a parent willfully or negligently fails to provide the child with adequate food, clothing, shelter, or medical treatment. The provisions under [AB 841](#) amended [WIC § 300 \(b\)\(1\)](#) to prohibit a child from being found to be within the jurisdiction of the Juvenile Court solely due to the failure of the child's parent or alleged parent to seek court orders to pursue custody of the child.

ASSEMBLY BILL 841

The underlying goal of AB 841 is to protect families and keep children in the care and custody of a parent whenever possible. County CWS agencies must make reasonable efforts to prevent the removal of children from the care of a parent and provide services that are the least invasive and trauma informed. State law requires that, when a child is removed under [WIC § 361](#), the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time of removal, who desires to assume custody of the child ([WIC § 361.2](#)). When a parent is willing to take physical custody of their child, a court may not intervene unless it would be detrimental to the safety, protection, or physical or emotional well-being of the child. A parent or alleged parent with whom the child was not residing at the time of the events that brought the child within the provisions of [WIC § 300](#), may lack the knowledge to seek court orders to pursue legal custody of the child or may be unable to pay court fees. This should not be the basis for denying the child's release to the care of that parent. This bill prevents a child from becoming a dependent of the court solely due to the failure of the child's parent or alleged parent to seek court orders for custody of the child. Please refer to [ACL No. 18-98](#) for additional information regarding the statutory basis for removing a child from the physical custody of a non-custodial parent.

To prevent an unnecessary dependency matter in these circumstances, if it is determined that there is a parent who presents a risk to the child, but there is another parent willing and able to take care and custody of the child, safety must be assessed, and whenever possible, that parent should receive custody. The failure of the parent or alleged parent to obtain legal custody is not sufficient for the Juvenile Court to take jurisdiction and possibly remove the child from that "non-offending" parent's custody. To the extent it is reasonable, the court may consider ordering necessary services to support the parent(s) in meeting the needs of their child and safely keep the child in their home. The goal of both the Juvenile Court system and the county CWS agency is to ensure the most appropriate services are provided to assist and maintain familial bonds and connections which encourages families to remain together whenever possible.

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This bill further clarifies existing law that the child's parent or alleged parent's failure to seek court orders for custody of the child cannot be the singular reason that a child becomes a dependent of the Juvenile Court.

If you have any questions or need additional guidance regarding the information in this letter, contact the Family Centered Safety and Support Bureau at (916) 651-6160 or by sending an email to childprotection@dss.ca.gov.

Sincerely,

Original Document Signed By:

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division