

June 9, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-51

The purpose of this All County Letter is to provide guidance to counties regarding the recent passage of [Assembly Bill 2309 \(Chapter 780, Statutes of 2022\)](#). This bill amended [Welfare and Institutions Code section 360](#) to require the juvenile court to appoint a parent's designated guardian as the child's guardian unless it finds, by a preponderance of evidence, that the person's appointment would be contrary to the best interests of the child, and to clarify that the parent(s) may execute a written waiver of family maintenance or family reunification services prior to the court ordering a legal guardianship and appointing a legal guardian. This bill also amended [Welfare and Institutions Code section 328](#) to require the California Department of Social Services to submit a report to the Legislature that includes specified demographic and outcome data of children placed outside the home with or without a voluntary placement agreement.



KIM JOHNSON
DIRECTOR

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

June 9, 2023

ALL COUNTY LETTER NO. 23-51

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

SUBJECT: ASSEMBLY BILL 2309: GUARDIANSHIPS

REFERENCE: [ASSEMBLY BILL 2309 \(CHAPTER 780, STATUTES OF 2022\)](#);
[WELFARE AND INSTITUTIONS CODE SECTION 224.1](#),
[WELFARE AND INSTITUTIONS CODE SECTION 300](#),
[WELFARE AND INSTITUTIONS CODE SECTION 328](#),
[WELFARE AND INSTITUTIONS CODE SECTION 360](#),
[WELFARE AND INSTITUTIONS CODE SECTION 361.31](#),
[WELFARE AND INSTITUTIONS CODE SECTION 361.5](#), AND
[WELFARE AND INSTITUTIONS CODE SECTION 361.7](#)

The purpose of this All County Letter is to provide guidance to counties regarding the recent passage of [Assembly Bill \(AB\) 2309 \(Chapter 780, Statutes of 2022\)](#). This bill amended [Welfare and Institutions Code \(WIC\) section 360](#) to require the juvenile court to appoint a parent's designated guardian as the child's guardian unless it finds, by a preponderance of evidence, that the person's appointment would be contrary to the best interests of the child, and to clarify that the parent(s) may execute a written waiver of family maintenance (FM) or family reunification (FR) services prior to the court ordering a legal guardianship and appointing a legal guardian. This bill also amended [WIC section 328](#) to require the California Department of Social Services (CDSS) to submit a report to the Legislature that includes specified demographic and outcome data of children placed outside the home with or without a voluntary placement agreement.

BACKGROUND

The Child Welfare Services (CWS) system is designed to protect the health and safety of children who are subject to or at risk of abuse or neglect. When the juvenile court determines that a child is a person described by [WIC section 300](#), and the parent has

expressed they are not interested in FM or FR services, the juvenile court may, under [WIC section 360](#), order and appoint a legal guardianship, if it is found to be in the best interest of the child, and the parent(s) and child (when developmentally appropriate) agree to the guardianship. Guardianship as a permanency option provides stability through relationships and provides a sense of connectedness in children. Children who cannot immediately return home due to abuse or neglect have better educational and behavioral outcomes when they are placed with relatives or non-relative extended family members (NREFMs), compared to children placed in non-family settings. When parent(s) waive FM or FR services, [WIC section 360](#) provides them with the opportunity to designate a potential guardian to care for their child. In the case of an Indian child, the court must conclude, prior to ordering an involuntary foster-care placement or termination of parental rights, that active efforts have been made to prevent the breakup of the Indian family and that those efforts have been unsuccessful ([WIC section 361.7\(a\)](#).)

ASSEMBLY BILL 2309

The juvenile court may, through [WIC section 360](#), order a guardianship when the parent(s) waive FM or FR services. Guardianships established under [WIC section 360](#) allow for the opportunity early in a juvenile court case to ensure that a child may live with a family member, extended family member, or NREFM known by the family.

The goal of [AB 2309](#) is to promote and protect the family's ability to participate in decision-making and allows the parent(s) to designate a person of their choice to be the child's guardian as long as the safety of the child is not compromised and the child (if developmentally appropriate), or the child's legal counsel (if the child is under 12 years of age), does not object to that person's appointment. The juvenile court is now required to appoint that individual as the child's guardian unless it finds, by a preponderance of the evidence, that the person's appointment would be contrary to the best interests of the child. The placing agency must conduct, and the court must consider, an assessment under [WIC section 361.5](#) in determining the best interest of the child. However, the proposed guardian is not required to complete the full resource family approval process prior to their assessment as guardian.

Placing a child in a guardianship with relative caregivers, extended family members, or NREFMs, rather than in a non-related foster care placement, provides the opportunity for the child to remain with their community and to stay connected to their cultural identity, therefore, resulting in better outcomes for the child and family. If the child is an Indian child, as defined in [WIC section 224.1](#), placement preferences shall still be applied according to [WIC section 361.31](#). ([WIC section 360\(a\)\(2\)](#).)

A provision was also added under [WIC Section 328\(b\)](#), requiring the CDSS to submit a report inclusive of the following outcomes:

- The number of children in the care and custody of the CWS agency under a voluntary placement agreement (VPA).
- The number of CWS investigations that resulted in a written plan for care of a child placed outside the home under an involuntary placement agreement.
- The number of those children (under a voluntary and/or involuntary placement agreement) who received a subsequent child maltreatment report within one year of initial child welfare contact, including whether the reports were substantiated, unsubstantiated, or inconclusive.
- The number of those children (under a voluntary and/or involuntary placement agreement) for whom a dependency court petition is filed within one year of the date of the VPA or written plan for care.

This data will be stratified by demographic information and is due to the Legislature on or before July 1, 2025, or 15-months after the Child Welfare Services – California Automated Response and Engagement System (CWS-CARES) can automate these new data fields. When CWS-CARES is implemented, it will be the responsibility of each county CWS agency to ensure that the above data is documented into the applicable fields.

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. For specific questions related to the Kinship-Guardianship Assistance Program, please contact CaregiversForYouth@dss.ca.gov. For specific questions related to Resource Family Approvals, please contact RFA@dss.ca.gov.

Sincerely,

Original Document Signed By:

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division

cc: All Federally Recognized Tribes