

August 30, 2024

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 24-64

The purpose of this All County Letter is to announce the passage of Senate Bill (SB) 463 and its impact on family reunification. The SB 463 (Chapter 714, Statutes of 2023) amends sections 366.21, 366.22, and 366.25 of the Welfare and Institutions Code (WIC). The SB 463 intends to further remove barriers to family reunification by instructing the courts that a parent or guardian's inability or failure to participate regularly and make substantive progress in court-ordered treatment programs shall not be considered prima facie evidence that returning the child would be detrimental.



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DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

August 30, 2024

ALL COUNTY LETTER NO. 24-64

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL CHILD WELFARE SERVICE PROGRAM MANAGERS
ALL FOSTER FAMILY AGENCY DIRECTORS
ALL TITLE IV-E TRIBES

SUBJECT: **A PARENT'S FAILURE TO PARTICIPATE REGULARLY AND
MAKE SUBSTANTIVE PROGRESS IN COURT-ORDERED
TREATMENT PROGRAMS NOT PRIMA FACIE EVIDENCE OF
DETIMENT TO RETURN OR REUNIFICATION**

REFERENCE: [WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS 300,
WIC SECTION 366.21, WIC SECTION 366.22,
WIC SECTION 366.25;
SENATE BILL 463 \(CHAPTER 714, STATUTES OF 2023\);
ALL COUNTY LETTER \(ACL\) NO. 24-33, ACL NO. 24-18,
ACL NO. 19-87,
INTEGRATED CORE PRACTICE MODEL \(ICPM\)](#)

PURPOSE

The [Senate Bill \(SB\) 463 \(Chapter 714, Statutes of 2023\)](#) amends [Welfare and Institutions Code \(WIC\) sections 366.21, WIC section 366.22, and WIC section 366.25](#). The amendments further support family reunification by removing barriers through instruction to the courts by deleting the language that required the court to consider a parent's, guardian's or Indian custodian's inability or failure to participate regularly and make substantive progress in court-ordered treatment programs as prima facie evidence of detriment to the return of the child(ren). Pursuant to the amendments to these WIC sections, the failure of a parent, guardian, or Indian custodian to participate regularly or make substantive progress in their court ordered treatment program is no longer prima facie evidence that returning the child would be detrimental to their health or safety. The passage of SB 463 was joined to Assembly Bill (AB) 937, please see [All County Letter \(ACL\) No. 24-33](#) for information regarding AB 937.

BACKGROUND

The [WIC section 300](#) provides the statutory basis for the jurisdiction of the juvenile court. The WIC sections 366.21, 366.22 and 366.25 govern the periodic permanency review hearings and mandate the guidelines of those proceedings including what the court shall consider and whether to return the child or continue reunification services.

Prior to the passage of this bill, WIC section 366.21, 366.22 and 366.25 all contained a provision that directed the court to consider the failure of the parent or guardian to participate regularly and to make substantive progress in a court ordered treatment program as prima facie evidence that returning the child to the parent or guardian would be detrimental to the health and/or safety of the child.

NEW GUIDANCE

The amendments to WIC sections 366.21, 366.22, and 366.25 made by SB 463 eliminate the presumption of detriment based on a parent's, guardian's or Indian custodian's lack of participation or substantive progress in a court ordered treatment program, for purposes of determining whether the child should be returned to the parent or guardian or Indian custodian's custody.

While this eliminates the presumption of detriment to a child's health or safety due to a parent's inability or failure to participate in court ordered treatment services, it does not prohibit a court from considering a parent's participation in rehabilitation services when evaluating the parent's fitness to be reunified with their child. Rather, the juvenile court shall now make the determination of a parent's ability to reunify with their child based on the totality of the circumstances, as opposed to requiring the court begin with the presumption that the parent is unable to reunify based upon their failure to participate in court-ordered treatment programs.

At each hearing conducted pursuant to WIC section 366.21, 366.22, or 366.25, the court must return the child unless the agency proves, by preponderance of the evidence, that return would create a substantial risk of detriment to the child. This amendment eliminates the presumption that lack of participation in court ordered treatment is prima facie evidence of risk, but still requires assessment of the totality of circumstances surrounding the parent's ability to have the child safely returned to the home.

The bill's intention is to highlight that while a parent or guardian's inconsistent participation in treatment may be of concern, it does not in and of itself indicate a substantial risk of detriment to the child. There may be valid reasons for a parent or guardian's inability to participate regularly, including, but not limited to, illness, inability to pay for the treatment, lack of transportation, cultural considerations, long wait lists for program entry, or inability to take time off from work. These statutory amendments require the Child Welfare Services agency to demonstrate the risk of detriment and take

that evidentiary burden off the parent. For example, recovery from a substance abuse issue is a highly personal process, unique to the individual, and often takes time finding the appropriate treatment, and appropriate treatment program. Given the short statutory timelines, finding the appropriate program, and completing that program in a timely way may prove challenging. The social worker should focus on the parent's efforts and progress and the extent to which they availed themselves of the services provided, considering any barriers the parent may have encountered. Previous statutory language placed the burden on parents, guardians, and Indian custodians to dispute the presumption of detriment to the child's health and/or safety, compounding disadvantages and reinforcing systemic inequalities.

INTEGRATED CORE PRACTICE MODEL

The [Integrated Core Practice Model \(ICPM\)](#) for Children, Youth, and Families has been significantly enhanced, establishing evidence-informed guidance and principle-based practices regarding effective engagement, assessment, service planning and delivery, monitoring of care, and transition management.

Parent/Guardian/Indian custodian engagement is essential for successfully achieving permanency for the child. There are numerous ways a caseworker can strengthen their engagement with a parent/guardian/Indian custodian who is struggling with their court ordered treatment plans.

The various teaming and service planning/delivery approaches of agencies that serve dependent children and families, including child and family teams (CFTs) and individualized program plans, can be utilized to identify and support the needs of the family to avoid unreasonable service interruptions and barriers ([ACL 19-87](#)).

ICPM Practice Behaviors that support engaging a parent/guardian/Indian custodian during court ordered substance treatment include:

- Building an environment where families feel valued, understood, and want to be actively engaged in the sharing of information with service providers.
- Ensuring culturally aligned healing practices.
- Identifying family's strengths, supports and resources to enhance the CFT and case plan.
- Supporting court ordered treatment plans by aligning other support services with the treatment plan, such as including mental health support services.
- Ensuring regular contact between the parent/guardian/Indian custodian and the child, if possible. This has proven to have immense impact in successful substance treatment programs.
- In the case of an Indian child, tribal engagement paired with parent/guardian/Indian custodian engagement is key to successful reunification and Indian Child Welfare Act (ICWA) compliance requirements. Please see [ACL 24-18](#) for a comprehensive guide to ICWA active efforts.

Caseworker engagement with the parent, guardian, or Indian custodian the child was removed from, to the greatest extent possible, remains a critical part of case planning and documentation and is vital to achieving permanency for the child, whether the permanency goal is reunification or another form of permanent placement. This engagement is also key for the juvenile court's overall understanding of the many complicated aspects of the case that must be considered at every permanency hearing.

If you have any questions or need additional guidance regarding the information in this letter, contact the Permanency Policy Bureau at (916) 651-7394 or the Family Reunification and Pathways to Permanency Policy Unit at Reunification-Permanency@dss.ca.gov.

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division