

ASSEMBLY BILL

No. 1852

**Introduced by Assembly Member Portantino
(Coauthors: Assembly Members Ammiano, Carter, Gilmore,
Ruskin, and Villines)**

February 12, 2010

An act to amend Sections 358.1, 360, and 16206 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1852, as introduced, Portantino. Dependent children: locating extended family members

Existing law requires the juvenile court, after finding that a child is within the jurisdiction of the juvenile court on the basis of abuse or neglect, to hear evidence on the question of the proper disposition to be made of the child. Before determining the appropriate disposition to be made of the child, the court is required to receive into evidence the social study of the child made by the social worker.

Existing law also authorizes the juvenile court, in addition to or in lieu of adjudicating the child a dependent child of the court, to appoint a legal guardian of, or order a legal guardianship for, the child, as specified. Existing law requires the court to read and consider a specified assessment before appointing a legal guardian.

Existing law additionally establishes a statewide multipurpose child welfare training program, as specified.

This bill would revise the social study and the assessment described above to include information regarding whether the county welfare department has attempted to locate relative and nonrelative, as defined, extended family members of the child and establish permanent familial

connections between the child and those persons. The bill would also revise the statewide child welfare training program to include training in making efforts to locate extended family members of dependent children and establish permanent familial connections for those children. By increasing the duties of social workers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 358.1 of the Welfare and Institutions
2 Code, as amended by Section 4 of Chapter 287 of the Statutes of
3 2009, is amended to read:

4 358.1. Each social study or evaluation made by a social worker
5 or child advocate appointed by the court, required to be received
6 in evidence pursuant to Section 358, shall include, but not be
7 limited to, a factual discussion of each of the following subjects:

8 (a) Whether the county welfare department or social worker has
9 considered child protective services, as defined in Chapter 5
10 (commencing with Section 16500) of Part 4 of Division 9, as a
11 possible solution to the problems at hand, and has offered these
12 services to qualified parents if appropriate under the circumstances.

13 (b) What plan, if any, for return of the child to his or her parents
14 and for achieving legal permanence for the child if efforts to reunify
15 fail, is recommended to the court by the county welfare department
16 or probation officer.

17 (c) Whether the best interests of the child will be served by
18 granting reasonable visitation rights with the child to his or her
19 grandparents, in order to maintain and strengthen the child's family
20 relationships.

21 (d) (1) Whether the child has siblings under the court's
22 jurisdiction, and, if any siblings exist, all of the following:

1 (A) The nature of the relationship between the child and his or
2 her siblings.

3 (B) The appropriateness of developing or maintaining the sibling
4 relationships pursuant to Section 16002.

5 (C) If the siblings are not placed together in the same home,
6 why the siblings are not placed together and what efforts are being
7 made to place the siblings together, or why those efforts are not
8 appropriate.

9 (D) If the siblings are not placed together, the frequency and
10 nature of the visits between siblings.

11 (E) The impact of the sibling relationships on the child's
12 placement and planning for legal permanence.

13 (2) The factual discussion shall include a discussion of indicators
14 of the nature of the child's sibling relationships, including, but not
15 limited to, whether the siblings were raised together in the same
16 home, whether the siblings have shared significant common
17 experiences or have existing close and strong bonds, whether either
18 sibling expresses a desire to visit or live with his or her sibling, as
19 applicable, and whether ongoing contact is in the child's best
20 emotional interest.

21 (e) If the parent or guardian is unwilling or unable to participate
22 in making an educational decision for his or her child, or if other
23 circumstances exist that compromise the ability of the parent or
24 guardian to make educational decisions for the child, the county
25 welfare department or social worker shall consider whether the
26 right of the parent or guardian to make educational decisions for
27 the child should be limited. If the study or evaluation makes that
28 recommendation, it shall identify whether there is a responsible
29 adult available to make educational decisions for the child pursuant
30 to Section 361.

31 (f) Whether the child appears to be a person who is eligible to
32 be considered for further court action to free the child from parental
33 custody and control.

34 (g) Whether the parent has been advised of his or her option to
35 participate in adoption planning, including the option to enter into
36 a postadoption contact agreement as described in Section ~~8714.7~~
37 ~~8616.5~~ of the Family Code, and to voluntarily relinquish the child
38 for adoption if an adoption agency is willing to accept the
39 relinquishment.

1 (h) The appropriateness of any relative placement pursuant to
2 Section 361.3. However, this consideration may not be cause for
3 continuance of the dispositional hearing.

4 (i) Whether the caregiver desires, and is willing, to provide legal
5 permanency for the child if reunification is unsuccessful.

6 (j) *Whether the county welfare department has attempted to*
7 *locate relative and nonrelative extended family members of the*
8 *child and establish permanent familial connections between the*
9 *child and those persons. For purposes of this subdivision, a*
10 *nonrelative extended family member is defined in Section 362.7.*

11 ~~(j)~~

12 (k) For an Indian child, in consultation with the Indian child's
13 tribe, whether tribal customary adoption is an appropriate
14 permanent plan for the child if reunification is unsuccessful.

15 ~~(k)~~

16 (l) This section shall remain in effect only until January 1, 2014,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before January 1, 2014, deletes or extends that date.

19 SEC. 2. Section 358.1 of the Welfare and Institutions Code,
20 as added by Section 5 of Chapter 287 of the Statutes of 2009, is
21 amended to read:

22 358.1. Each social study or evaluation made by a social worker
23 or child advocate appointed by the court, required to be received
24 in evidence pursuant to Section 358, shall include, but not be
25 limited to, a factual discussion of each of the following subjects:

26 (a) Whether the county welfare department or social worker has
27 considered child protective services, as defined in Chapter 5
28 (commencing with Section 16500) of Part 4 of Division 9, as a
29 possible solution to the problems at hand, and has offered these
30 services to qualified parents if appropriate under the circumstances.

31 (b) What plan, if any, for return of the child to his or her parents
32 and for achieving legal permanence for the child if efforts to reunify
33 fail, is recommended to the court by the county welfare department
34 or probation officer.

35 (c) Whether the best interests of the child will be served by
36 granting reasonable visitation rights with the child to his or her
37 grandparents, in order to maintain and strengthen the child's family
38 relationships.

39 (d) (1) Whether the child has siblings under the court's
40 jurisdiction, and, if any siblings exist, all of the following:

1 (A) The nature of the relationship between the child and his or
2 her siblings.

3 (B) The appropriateness of developing or maintaining the sibling
4 relationships pursuant to Section 16002.

5 (C) If the siblings are not placed together in the same home,
6 why the siblings are not placed together and what efforts are being
7 made to place the siblings together, or why those efforts are not
8 appropriate.

9 (D) If the siblings are not placed together, the frequency and
10 nature of the visits between siblings.

11 (E) The impact of the sibling relationships on the child's
12 placement and planning for legal permanence.

13 (2) The factual discussion shall include a discussion of indicators
14 of the nature of the child's sibling relationships, including, but not
15 limited to, whether the siblings were raised together in the same
16 home, whether the siblings have shared significant common
17 experiences or have existing close and strong bonds, whether either
18 sibling expresses a desire to visit or live with his or her sibling, as
19 applicable, and whether ongoing contact is in the child's best
20 emotional interest.

21 (e) If the parent or guardian is unwilling or unable to participate
22 in making an educational decision for his or her child, or if other
23 circumstances exist that compromise the ability of the parent or
24 guardian to make educational decisions for the child, the county
25 welfare department or social worker shall consider whether the
26 right of the parent or guardian to make educational decisions for
27 the child should be limited. If the study or evaluation makes that
28 recommendation, it shall identify whether there is a responsible
29 adult available to make educational decisions for the child pursuant
30 to Section 361.

31 (f) Whether the child appears to be a person who is eligible to
32 be considered for further court action to free the child from parental
33 custody and control.

34 (g) Whether the parent has been advised of his or her option to
35 participate in adoption planning, including the option to enter into
36 a postadoption contact agreement as described in Section ~~8714.7~~
37 ~~8616.5~~ of the Family Code, and to voluntarily relinquish the child
38 for adoption if an adoption agency is willing to accept the
39 relinquishment.

1 (h) The appropriateness of any relative placement pursuant to
2 Section 361.3. However, this consideration may not be cause for
3 continuance of the dispositional hearing.

4 (i) Whether the caregiver desires, and is willing, to provide legal
5 permanency for the child if reunification is unsuccessful.

6 (j) *Whether the county welfare department has attempted to*
7 *locate relative and nonrelative extended family members of the*
8 *child and establish permanent familial connections between the*
9 *child and those persons. For purposes of this subdivision, a*
10 *nonrelative extended family member is defined in Section 362.7.*

11 (j)

12 (k) This section shall become operative on January 1, 2014.

13 SEC. 3. Section 360 of the Welfare and Institutions Code is
14 amended to read:

15 360. After receiving and considering the evidence on the proper
16 disposition of the case, the juvenile court may enter judgment as
17 follows:

18 (a) Notwithstanding any other provision of law, if the court
19 finds that the child is a person described by Section 300 and the
20 parent has advised the court that the parent is not interested in
21 family maintenance or family reunification services, it may, in
22 addition to or in lieu of adjudicating the child a dependent child
23 of the court, order a legal guardianship, appoint a legal guardian,
24 and issue letters of guardianship, if the court determines that a
25 guardianship is in the best interest of the child, provided the parent
26 and the child agree to the guardianship, unless the child’s age or
27 physical, emotional, or mental condition prevents the child’s
28 meaningful response. The court shall advise the parent and the
29 child that no reunification services will be provided as a result of
30 the establishment of a guardianship. The proceeding for the
31 appointment of a guardian shall be in the juvenile court.

32 Any application for termination of guardianship shall be filed
33 in juvenile court in a form as may be developed by the Judicial
34 Council pursuant to Section 68511 of the Government Code.
35 Section 388 shall apply to this order of guardianship.

36 No person shall be appointed a legal guardian under this section
37 until an assessment as specified in subdivision (g) of Section 361.5
38 is read and considered by the court and reflected in the minutes of
39 the court. The assessment shall include the following:

1 (1) Current search efforts for, and notification of, a noncustodial
2 parent in the manner provided in Section 291.

3 (2) A review of the amount of and nature of any contact between
4 the child and his or her parents since the filing of the petition.

5 (3) An evaluation of the child’s medical, developmental,
6 scholastic, mental, and emotional status.

7 (4) A preliminary assessment of the eligibility and commitment
8 of any identified prospective guardian, particularly the caretaker,
9 to include a social history including a screening for criminal records
10 and prior referrals for child abuse or neglect, the capability to meet
11 the child’s needs, and the understanding of the legal and financial
12 rights and responsibilities of guardianship.

13 (5) The relationship of the child to any identified prospective
14 guardian, the duration and nature of the relationship, the motivation
15 for seeking guardianship, and a statement from the child concerning
16 the guardianship, unless the child’s age or physical, emotional, or
17 other condition precludes the child’s meaningful response, and if
18 so, a description of the condition.

19 (6) An analysis of the likelihood that the child would be adopted
20 if parental rights were terminated.

21 The person responsible for preparing the assessment may be
22 called and examined by any party to the guardianship proceeding.

23 (7) *A report regarding efforts made to locate both relative and*
24 *nonrelative extended family members of the child and establish*
25 *permanent familial connections between the child and those*
26 *persons. For purposes of this paragraph, a nonrelative extended*
27 *family member is defined in Section 362.7.*

28 (b) If the court finds that the child is a person described by
29 Section 300, it may, without adjudicating the child a dependent
30 child of the court, order that services be provided to keep the family
31 together and place the child and the child’s parent or guardian
32 under the supervision of the social worker for a time period
33 consistent with Section 301.

34 (c) If the family subsequently is unable or unwilling to cooperate
35 with the services being provided, the social worker may file a
36 petition with the juvenile court pursuant to Section 332 alleging
37 that a previous petition has been sustained and that disposition
38 pursuant to subdivision (b) has been ineffective in ameliorating
39 the situation requiring the child welfare services. Upon hearing
40 the petition, the court shall order either that the petition shall be

1 dismissed or that a new disposition hearing shall be held pursuant
2 to subdivision (d).

3 (d) If the court finds that the child is a person described by
4 Section 300, it may order and adjudge the child to be a dependent
5 child of the court.

6 SEC. 4. Section 16206 of the Welfare and Institutions Code is
7 amended to read:

8 16206. (a) The purpose of the program is to develop and
9 implement statewide coordinated training programs designed
10 specifically to meet the needs of county child protective services
11 social workers assigned emergency response, family maintenance,
12 family reunification, permanent placement, and adoption
13 responsibilities. It is the intent of the Legislature that the program
14 include training for other agencies under contract with county
15 welfare departments to provide child welfare services. In addition,
16 the program shall provide training programs for persons defined
17 as a mandated reporter pursuant to the Child Abuse and Neglect
18 Reporting Act, Article 2.5 (commencing with Section 11164) of
19 Chapter 2 of Title 1 of Part 4 of the Penal Code. The program shall
20 provide the services required in this section to the extent possible
21 within the total allocation. If allocations are insufficient, the
22 department, in consultation with the grantee or grantees and the
23 Child Welfare Training Advisory Board, shall prioritize the efforts
24 of the program, giving primary attention to the most urgently
25 needed services. County child protective services social workers
26 assigned emergency response responsibilities shall receive first
27 priority for training pursuant to this section.

28 (b) The training program shall provide practice-relevant training
29 for mandated child abuse reporters and all members of the child
30 welfare delivery system that will address critical issues affecting
31 the well-being of children, and shall develop curriculum materials
32 and training resources for use in meeting staff development needs
33 of mandated child abuse reporters and child welfare personnel in
34 public and private agency settings.

35 (c) The training provided pursuant to this section shall include
36 all of the following:

- 37 (1) Crisis intervention.
- 38 (2) Investigative techniques.
- 39 (3) Rules of evidence.
- 40 (4) Indicators of abuse and neglect.

- 1 (5) Assessment criteria, including the application of guidelines
- 2 for assessment of relatives for placement according to the criteria
- 3 described in Section 361.3.
- 4 (6) Intervention strategies.
- 5 (7) Legal requirements of child protection, including
- 6 requirements of child abuse reporting laws.
- 7 (8) Case management.
- 8 (9) Use of community resources.
- 9 (10) Information regarding the dynamics and effects of domestic
- 10 violence upon families and children, including indicators and
- 11 dynamics of teen dating violence.
- 12 (11) Posttraumatic stress disorder and the causes, symptoms,
- 13 and treatment of posttraumatic stress disorder in children.
- 14 (12) The importance of maintaining relationships with
- 15 individuals who are important to a child in out-of-home placement,
- 16 including methods to identify those individuals, consistent with
- 17 the child's best interests, including, but not limited to, asking the
- 18 child about individuals who are important, and ways to maintain
- 19 and support those relationships.
- 20 (13) The legal duties of a child protective services social worker,
- 21 in order to protect the legal rights and safety of children and
- 22 families from the initial time of contact during investigation
- 23 through treatment.
- 24 (d) The training provided pursuant to this section may also
- 25 include any or all of the following:
- 26 (1) Child development and parenting.
- 27 (2) Intake, interviewing, and initial assessment.
- 28 (3) Casework and treatment.
- 29 (4) Medical aspects of child abuse and neglect.
- 30 (e) The training program shall assess the program's performance
- 31 at least annually and forward it to the State Department of Social
- 32 Services for an evaluation and report to the Legislative Analyst.
- 33 The first report shall be forwarded to the Legislative Analyst no
- 34 later than January 1, 1990, and on the first of January in any
- 35 subsequent year. The assessment shall include at minimum the
- 36 following:
- 37 (1) The number of persons trained.
- 38 (2) The type of training provided.
- 39 (3) The degree to which the training is perceived by participants
- 40 as useful in practice.

1 (f) The training program shall provide practice-relevant training
2 to county child protective services social workers who screen
3 referrals for child abuse or neglect and for all workers assigned to
4 provide emergency response, family maintenance, family
5 reunification, and permanent placement services, *and make efforts*
6 *to locate extended family members of dependent children and*
7 *establish permanent familial connections for those children.* The
8 training shall be developed in consultation with the Child Welfare
9 Training Advisory Board and domestic violence victims' advocates
10 and other public and private agencies that provide programs for
11 victims of domestic violence or programs of intervention for
12 perpetrators.

13 SEC. 5. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.