

September\_\_, 2021

The Honorable Gavin Newsom  
Governor, State of California  
1303 10<sup>th</sup> Street, Suite 1173  
Sacramento, CA 95814  
Submitted via email to [Leg.Unit@gov.ca.gov](mailto:Leg.Unit@gov.ca.gov)

RE: **AB 788 (Calderon) – REQUEST FOR SIGNATURE**

Dear Governor Newsom:

**ORGANIZATION NAME** respectfully requests you sign AB 788 (Calderon), a consent bill that codifies a recent appellate court decision that will result in our child welfare system trying to keep families together if that can be done safely, just as the Legislature intended. This uncontroversial, pro-family, pro-child bill has no opposition and is supported by a diverse array of parent, child, and organized health care advocacy organizations.

Under current law, if a drug addicted parent “resisted” treatment in a prior child welfare case, services aimed at reunifying a family and keeping a child out of foster care in a current case can, in the parlance of child welfare litigation, be “bypassed;” that is, not provided as would routinely be the case otherwise. In relevant part and with pertinent emphasis supplied, WIC Code section 361.5(b)(13) permits reunification services to be bypassed if the “parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem.”

What constitutes “resistance”? Some courts have embraced an interpretation of “resisted” that equates resistance to an all-but-inevitable relapse during recovery. However, a recent California appellate court decision, after a detailed and thoughtful analysis of this question, has clarified that relapse (say, a single failed test) that occurred after a previous court-ordered drug treatment program in a previous child welfare case is not the same as previously “resisting” drug treatment. Pointing to the county’s concession

that relapse is a normal part of recovery, the appellate court correctly reasoned: *"As [county] acknowledged...relapse is a normal part of recovery. In other words, a relapsed parent is far from hopeless. It is decidedly not fruitless to offer services to a parent who genuinely made an effort to achieve sobriety but slipped up on the road to recovery."* *In re B.E.* (2020) 46 Cal.App.5th 932, 934-35.

AB 788 (Calderon) simply codifies this common-sense ruling. As a result, the bill will ensure that families struggling with drug addiction are not forever ruptured due to a tragic misapplication of current law without even an effort to preserve them by providing them needed services that would otherwise almost automatically be provided.

Please sign AB 788 (Calderon).

Sincerely,  
ORGANIZATION/INDIVIDUAL