Information Sheet 17

Continuum of Care Reform and Senate Bill 794 (Dependency Proceedings)

The following recommendations relate to new legal requirements created by Assembly Bill 403 (Stone; Stats. 2015, ch. 773) and Senate Bill 794 (Comm. on Hum. Srvcs; Stats. 2015, ch. 425):

- For each case where the child is ordered into an out-of-home placement, convene a "child and family team" that will participate in creating a case plan that is strengths-based, needs-driven, and culturally relevant and will also provide input on placement decisions.[1] In all cases in which out-of-home placement is used to attain the case plan goals, the case plan must consider the recommendations of the child and family team.[2] See *All County Letter 16-84 Requirements and Guidelines for Creating and Providing a Child and Family Team* for more information about the child and family team.

- Ensure that the court-ordered permanent plan reflects the new permanent plan options recently adopted by SB 794.

  The term "long-term foster care" was removed from federal statutes several years ago and California recently followed suit with SB 794, removing the references to "long-term foster care" from the Welfare and Institutions Code. Under current law, if a child must remain in a nonrelative foster home at or after the permanency planning hearing, the court should order continued foster care placement and select a permanent plan of return home, adoption, tribal customary adoption, legal guardianship, or placement with a fit and willing relative.[3] For these children, the court must also make factual findings identifying the barriers to achieving the selected permanent plan.[4] In addition, placement in a group home or short-term residential therapeutic program, must not be the identified permanent plan for any child or nonminor dependent.[5]

  The language used to order the child's permanent plan at a postpermanency review or a permanency hearing should reflect these new requirements under the Welfare and Institutions Code. For instance, the following permanent plan order:

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[1] Welf. & Inst. Code § 16501(a)(4). All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.
[2] § 16501.1(c).
[3] §§ 366.21(g)(5)(A); 366.22(a)(3), 366.25(a)(3), 366.26(c)(4)(B), 366.3(h).
[4] *Ibid.*
[5] §§ 366.26(c)(4)(B)(iii), 16501(i)(2).

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"A permanent plan of placement in a short term residential treatment program or group home, with a specific goal of placement in a less restrictive foster care setting."

Should be replaced with:

"Placement in foster care with a permanent plan of _____ (*specify return home, adoption, legal guardianship, placement with a fit and willing relative, or tribal customary adoption*)."

- The use of "another planned permanent living arrangement" as a permanent plan is limited to specific situations when the child or nonminor is at least 16 years old. Select "another planned permanent living arrangement" as a permanent plan only for children aged 16 years and older or nonminor dependents and only when there is a compelling reason to determine that no other permanent plan is in the best interest of the child or nonminor dependent.[6]

  For children aged 16 years and older whose permanent plan is "another planned permanent living arrangement," the court must make additional inquiries and findings aimed at ensuring that the agency continues to actively seek permanency options other than long-term care and that the child is in the most family-like setting possible. These additional requirements require the court to describe the steps taken to make sure the caregiver is following the reasonable and prudent parent standard and the agency's ongoing and intensive efforts to return the child home, finalize an adoption, establish a guardianship, or place the child with a fit and willing relative. The court must also ask the child about his or her desired permanency outcome, determine whether and explain why another planned permanent living arrangement remains the best permanent plan, and make factual findings identifying the barriers to achieving the permanent plan and the agency's efforts to address them.[7]

- A finding of diligent efforts to locate relatives is required to be made at all dispositional hearings. SB 794 requires that this finding now be made at all permanency hearings in which the court terminates reunification services, and all postpermanency hearings for a child not placed for adoption.[8]

- For any child who is placed in a community care facility licensed as a group home or a short-term residential treatment program, as defined in section 11400(ad), the case plan must indicate that placement is for the purposes of providing short-term, specialized, and intensive

[6] §§ 366.26(c)(4)(B)(ii), 16501(i)(2).
[7] § 366(a)(1)(B); § 366.3(h); § 366.31(e).
[8] § 309(e); Fam. Code, § 7950; rules 5.695, 5.715(b)(5), 5.720(a)(4), 5.722(a)(5), and 5.740(a)(6).

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treatment for the child, and specifies the need for, nature of, and anticipated duration of this treatment.[9] The case plan must also include a plan for transitioning the child to a less restrictive environment and the projected timeline by which the child will be transitioned to a less restrictive environment.[10]

In addition, a child and family team meeting as defined in section 16501 must be convened by the county placing agency for the purpose of identifying the supports and services needed to achieve permanency and enable the child or youth to be placed in the least restrictive family setting that promotes normal childhood experiences.[11]

If the placement is longer than six months, the placement must be documented consistent with section 16501.1(a)(3) and must be approved by the deputy director or director of the county child welfare department.[12]

- Under recent amendments to section 16501.1(g)(16)(A)(i), the case plan for 14- and 15-year-old children in placement must include a description of the services to help the child "to prepare for the transition from foster care to successful adulthood."[13] Prior to these amendments, this requirement only applied if the child was 16 years old or older.

  This requirement was based on federal amendments of title IV-E that extended to 14 and 15 year olds the requirement that a state's case plan include a written description of transitional services and that status review hearings include a determination of needed transitional services.[14] Although the statutes do not require the inclusion of a TILP for these children, the JRTA project recommends developing and including a TILP with the case plan of all children in foster care who are 14 years old and older.

[9] § 16501.1(d)(2)
[10] *Ibid.*
[11] § 16501.1(d)(2)(B).
[12] § 361.2(e)(9).
[13] Assem. Bill 403, § 109.5.
[14] Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 113 (Sept. 29, 2014) 128 Stat. 1919, 1928–1930 (effective Sept. 29, 2015 [codified at 42 U.S.C. § 675(1), (5)]). The federal statute also replaced the term "independent living" with "successful adulthood." The California Legislature followed suit.

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