Two Significant Legislative Changes in Dependency Law

In September of 2023, Governor Newsom signed two significant bills that will have an impact on our dependency system. They are AB 937 and SB 578.

AB 937 states that if a finding is made at a W & I 366.22 hearing that services were not reasonable, the court shall extend reunification services for an additional six months. Subsection (3) reads "The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of their parent or legal guardian and safely maintained in the home within the extended period of time, that reasonable services have not been provided to the parent or legal guardian, or, in the case of an Indian child, that active efforts as defined in subdivision (f) of Section have not been made." This legislation is another example of the law requiring the agency to provide adequate services and support for parents at risk of losing their children in the dependency process.

This bill was proposed in response to the Supreme Court case of *Michael G. v. Superior Court* (2023) 14 Cal. 5th 609. In that opinion the Supreme Court ruled that the trial court should make the decision whether to offer additional services after a failure of the department to provide

reasonable efforts to the parent and the authority to do so was under W & I Section 352 which requires a finding that a continuance is not contrary to the interest of the minor. AB 937 makes it mandatory for the court to extend services once the court finds that the agency has failed to provide reasonable services or in the case of an Indian child, failed to make active efforts to reunite the child with their family, unless the court finds by clear and convincing evidence based on competent evidence from a mental health professional that extending services would be detrimental to the child. Furthermore, the court shall state, either on the record or in writing the reason for its finding. Neither the passage of time nor the child's relationship with the caregiver shall be grounds, in and of themselves, for the denial of further reunification services.

The second legislative change comes from SB 578. It addresses the short- and long-term trauma a child faces when removed from parental care. When a judge has decided to remove a child from parental care, the social worker must now address (1) the location of the placement, emphasizing the importance of placing with relatives, (2) the school the child will be attending, (3) whether the child will be leaving the neighborhood where the child has been living, (4) the visitation schedule including whether the parents will be able to attend medical, dental, school activities, and other important events in the child's life, (5) whether the child needs mental health services to address the trauma of removal, (6) whether the child would benefit from a CASA volunteer, and related issues.

This statute is forward-looking. The legislation recognizes that the child will suffer trauma from being removed from parental care and requires social workers and others to assist the judge in identifying services that will reduce the trauma of removal.

SB 578 should encourage judges to follow the progress of children in placement to see that their dispositional orders are being carried out. The law is clear that juvenile court judges have the power to enforce these orders and, if necessary, order services for children under their jurisdiction.[1]

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Endnotes

1 California Rules of Court, Rule 5.40(e)(11) reads in part, "California law empowers the juvenile court judge not only to order services for children under its jurisdiction, but also to enforce and review the delivery of those services."