



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on November 14, 2019

Title	Agenda Item Type
Family and Juvenile Law: Court Adoption and Permanency Month	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	November 14, 2019
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	October 23, 2019
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Daniel Richardson, 415-865-7619 daniel.richardson@jud.ca.gov

Executive Summary

For the twentieth straight year, the Family and Juvenile Law Advisory Committee recommends adopting a resolution proclaiming November to be Court Adoption and Permanency Month. As it has since 1999, in observance of National Adoption Month, the Judicial Council can recognize the ongoing efforts of California's juvenile courts and their justice partners to provide children and families with access to fair, understandable judicial proceedings leading to timely, well-informed, and just permanency outcomes. The resolution will also give courts the opportunity to hold special events finalizing adoptions from foster care and raising community awareness of the importance of finding safe, stable, and permanent homes for every child or youth in foster care.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt the attached resolution, effective November 14, 2019, proclaiming November 2019 to be Court Adoption and Permanency Month.

Relevant Previous Council Action

The Judicial Council first declared November to be Court Adoption and Permanency Month in California in 1999. Since that successful observance, the council has continued to reaffirm this declaration, demonstrating its commitment to judicial procedures and collaborative practices that promote timely case resolution and permanency for children and youth in foster care. The council's Family and Juvenile Law Advisory Committee, other advisory groups, and council staff have worked to implement council and legislative directives relating to adoption and permanency, as well as to support the juvenile courts and their local justice partners each November to highlight both ongoing and special adoption and permanency efforts.

This year, Governmental Affairs staff worked with Assembly Member Brian Maienschein's office on the Legislature's annual tradition of declaring November as Court Adoption and Permanency Month.¹ In an overwhelming show of support for the importance of permanency for foster youth, the bill passed both houses unanimously. A separate resolution declaring November as Court Adoption and Permanency Month originating in the Senate, authored by Senator Richard Pan, also passed both houses unanimously.²

Analysis/Rationale

Permanent placement of a child in a committed relationship intended to last a lifetime—with the child's family if that's possible, or another loving family if it's not—is the goal of the juvenile court process. Children and families deserve access to a timely, understandable, and fair process that actively engages them, as well as the placement agency, in the work needed to achieve this goal. It is critical that California's courts continue to learn and implement new strategies to ensure that each child leaves foster care as quickly as possible with one or more lifelong connections to a caring adult, and that the courts continue to promote the placement of every child in a safe, loving, permanent home.

The last twenty years has seen positive progress in ensuring that children in foster care live in safe and permanent homes. California's large population means that its child welfare system serves a substantial number of children. Each year in California, nearly half a million reports³ are made of child abuse and neglect, and approximately 21,000 children enter foster care for the first time, compared to 27,000 twenty years ago.⁴ Currently, about 60,000 children in California are living apart from their families in child welfare-supervised, out-of-home care, which is a

¹ Assem. Con. Res. No. 126 (Maienschein; Stats 2019, ch. 174). See https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200ACR126.

² Sen. Con. Res. No. 74 (Pan; Stats 2019, ch. 159). See http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SCR74.

³ D. Webster et al. (2018). California Child Welfare Indicators Project (CCWIP) reports. Retrieved August 5, 2019, from University of California at Berkeley CCWIP website at http://cssr.berkeley.edu/ucb_childwelfare. Specific reports on referrals are at http://cssr.berkeley.edu/ucb_childwelfare/allegations.aspx.

⁴ *Ibid.* Specific reports on first entries to foster care are at http://cssr.berkeley.edu/ucb_childwelfare/EntryRates.aspx.

substantial number, but 44 percent less than it was twenty years ago.⁵ And the proportion of children exiting foster care into a permanent home has increased by 10 percent in the last twenty years, including a 57 percent increase in the proportion of those being adopted.⁶

While progress has been made since the council first declared November Court Adoption and Permanency Month twenty years ago, much work still needs to be done to improve the lives of children and families in the child welfare system. Forty percent of the children in foster care in California still live apart from their families for two or more years,⁷ 3,300 foster children are placed in congregate care rather than with relatives or in a home-like setting,⁸ and the percentage of foster children over 10 years old who exit foster care through adoption remains at only 25 percent.⁹

The history of child welfare demonstrates that federal and state law cannot remain static; it must constantly evolve to meet the complex needs of families and children who are at risk and children who are in need of a permanent home. Historically speaking, child protection is unique to the 20th century. It was not a concept that was widely appreciated or understood until the late 19th century, when public perception began to see children as victims in need of protection from abuse and neglect.¹⁰ At the time, there were no formal child-protective services, but nongovernmental child protection societies emerged advocating for and assisting in children's safety. At the time, criminal prosecution was the only legal means to protect children against child abuse and neglect.¹¹

The child welfare landscape shifted significantly in the 1960s. Public perception of the prevalence of child abuse led to a greater awareness of the need for child protection and the government's role in providing it.¹² The role of charitable nongovernmental child protection societies had faded and nearly all states passed laws placing the responsibility for child

⁵ *Ibid.* Specific point-in-time reports on children in child welfare–supervised foster care are at http://cssr.berkeley.edu/ucb_childwelfare/PIT.aspx.

⁶ *Ibid.* Specific reports on exits from foster care are at http://cssr.berkeley.edu/ucb_childwelfare/exits.aspx.

⁷ *Ibid.* Specific point-in-time reports on children in child welfare–supervised foster care are at http://cssr.berkeley.edu/ucb_childwelfare/PIT.aspx.

⁸ *Ibid.*

⁹ *Ibid.* Specific reports on the age of youth in care are at http://cssr.berkeley.edu/ucb_childwelfare/PIT.aspx. Specific reports on exits from foster care are at http://cssr.berkeley.edu/ucb_childwelfare/exits.aspx.

¹⁰ John E. B. Myers, “A Short History of Child Protection in America” (2008) 42 *Family Law Quarterly* 3.

¹¹ *Ibid.*

¹² Research by Dr. C. Henry Kempe and his article, “The Battered-Child Syndrome,” published in the *Journal of the American Medical Association* in 1962, is often credited with the shift in public perception and the creation of the court's large-scale involvement in child welfare cases. The landmark work described medical evidence of patterns of injuries to children caused by their caretakers' abuse and neglect and raised political, professional, and public awareness of child abuse throughout the nation.

protection in government hands.¹³ Indeed, family intervention in the name of child safety was incentivized through federal funding,¹⁴ leading to consequences that federal and state governments were not adequately prepared to deal with. Foster children were placed in institutionalized settings such as group homes at a high rate. Cases lacked sufficient judicial oversight, as separated families were not having their cases reviewed in court on a regular basis. Separated families were typically not provided adequate reunification services or case plans. Unnecessary barriers to adoption and permanence led to significant delays in finalizing permanency, leaving children to languish in foster care.

By 1980, these deficiencies began to raise alarm bells in Congress, and the modern framework of child welfare began to take shape. The Adoption Assistance and Child Welfare Act of 1980 (Pub.L. No. 96-272, 94 Stat. 500; 42 U.S.C. §§ 670–679c) shifted federal incentives away from intervention and toward preventing unnecessary removals and ensuring permanence when a child must remain out of home.¹⁵ Eligibility for federal funding now required courts to maintain strict timelines and to make a score of judicial findings and orders throughout the life of the case, including the required finding of “reasonable efforts” to prevent or eliminate the need to remove children from their homes and to reunify families or finalize a permanent plan. These findings and orders are a primary driver in ensuring that children achieve permanence or are returned home.

While the federal government appropriates funds dedicated to child welfare, states carry the primary responsibility for ensuring the welfare of children and their families. California has not been idle in this respect and continues to refine its child welfare scheme. In 2016, California passed the Continuum of Care Reform (CCR), Assembly Bill 403 (Stone; Stats. 2016, ch. 773), an ambitious piece of legislation comprehensively overhauling the framework of child welfare in California. CCR seeks as its primary objective ensuring that foster children can live in the most family-like setting on a permanent basis. It accomplishes this by placing limits on the use of congregate care as a placement, overhauling the approval process of and services provided to foster homes, and utilizing a team-based decision-making model on every case through the use of a “Child and Family Team.”¹⁶

The state has also been working on other innovative programs to improve the lives of foster children. One initiative, the Quality Parenting Initiative (QPI), began in 2009 as a collaborative

¹³ John E. B. Myers, “A Short History of Child Protection in America” (2008) 42 *Family Law Quarterly* 3.

¹⁴ States were only reimbursed for the cost of foster care. Public Welfare Amendments of 1962, Pub.L. No. 87-543, § 528 (July 25, 1962), 76 Stat. 172, 172.

¹⁵ Title IV-E of the Social Security Act principally entitles states with approved Title IV-E plans to reimbursement of part of their costs of providing foster care, adoption assistance, or kinship guardianship assistance on behalf of eligible children.

¹⁶ A Child and Family Team is “a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and his or her family, and to help achieve positive outcomes for safety, permanency, and well-being.” Welf. & Inst. Code, § 16501(a)(4).

effort with the California Department of Social Services, the County Welfare Directors Association of California, and the Youth Law Center. QPI is a collaborative process that seeks to rebrand foster parenting by articulating expectations and connects foster parents with the expert information, knowledge, and skill training on topics of need. In addition, Family Finding and Engagement is a critical component to the implementation of CCR and seeks not merely to identify a relative caregiver for a child, but to build a network of permanent connections that can support the child throughout his or her life.¹⁷

Recent federal legislation is also making ambitious changes to the framework of child welfare. The Family First Prevention Services Act (FFPSA), Public Law No. 115-123, was signed into law February 9, 2018, as part of the Bipartisan Budget Act of 2018, and represents the biggest change to the structure of federal child welfare funding since the establishment of the Title IV-E program in 1980. FFPSA makes changes in three areas: preventative services, congregate care, and reauthorization of other services. Of note, states that participate may now use Title IV-E federal dollars for time-limited (12 months) preventative services to address the risk to the child in the family's home before considering removal. California has not yet opted into the FFPSA.

Even with these reforms, there remains a constant risk that children spend unneeded weeks, months, or even years in temporary foster or group homes waiting for a permanent home. Raising awareness of the fundamental need children have of a permanent home, beyond simply for compliance with federal mandates, is worthy of the council's full endorsement. Court Adoption and Permanency Month is one way California courts can raise awareness, demonstrate commitment, and bring about changes in the court system to stabilize children's lives. The month of November was selected to coincide with National Adoption Month, when government agencies and nonprofit organizations highlight innovative efforts to promote permanency, including adoption, and to raise awareness of the need for safe, permanent homes for children in foster care.

Since Court Adoption and Permanency Month was initiated in 1999, many individual California courts have dedicated specific adoption days in November—including Adoption Fridays and Adoption Saturdays—as well as other events, to clear their backlogs of adoption cases. The Judicial Council encourages courts to do so as circumstances permit.

The Judicial Council also encourages courts with no backlog of adoption cases to hold adoption celebrations or commemorate other permanent connections for foster children, and to institute local system programs as part of the statewide November effort to raise awareness of adoption and permanency.

Many local courts—in conjunction with county social services, local nonprofit agencies, and others—celebrate and highlight Court Adoption and Permanency Month in November and

¹⁷ See All County Letter No. 18-42 (Apr. 6, 2018), *Family Finding and Engagement (FFE)*, www.cdss.ca.gov/Portals/9/ACL/2018/18-42.pdf?ver=2018-04-09-132626-940.

throughout the year. Events honoring permanent connections for foster children this year include the following:

- ***El Dorado County***
El Dorado County will hold their annual adoptions day celebration at the Placerville Main Street Courthouse in downtown Placerville in early November. At the event, between 5 to 10 adoptions are typically finalized and the event will honor the adoptive families by hosting a celebration including various gifts and family baskets for the children and families.
- ***Fresno County***
As in years past, Fresno County will hold an Adoptions Day celebration on November 15. Organized by the Department of Social Services, the elaborate event includes ceremonies celebrating finalized adoptions in Fresno. The event includes a theme, activities for children such as face painting, and a lunch.
- ***Riverside County***
Riverside County will hold their 12th annual Adoption Day event at the Historic Courthouse in Riverside on November 2. The event begins in the morning with a breakfast and guest speakers. At the 2018 event, a total of 62 children were adopted into 40 families, including one family that adopted 7 children. The ages of the children adopted ranged from 12 months to 16 years.
- ***San Diego County***
The Superior Court of San Diego County, the county Health and Human Services Agency, and other partners will celebrate National Adoption Day in November at Juvenile Court Central. As every year, the court will dedicate two courtrooms to finalizing adoptions and will fill the lobby area full of fun and festivities. Families often spend the afternoon rather than leaving after their adoption hearing.
- ***San Joaquin County***
The Superior Court of San Joaquin County will host their annual National Adoption Saturday event on November 23, 2019.
- ***Stanislaus County***
Stanislaus County will hold their fifth annual Adoption Celebration Dinner on November 7 at the Stanislaus Veterans Center.

Many California courts also support the Heart Gallery program, which raises community awareness through professional photography exhibits of children and youth in foster care who need adoptive families and permanent lifelong relationships. There are Heart Galleries throughout the nation, with California locations in Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, and San Diego Counties.

A wide variety of resources on adoption and permanency are available on website of the California Dependency Online Guide,¹⁸ maintained by council staff in the Center for Families, Children & the Courts. These materials provide ideas, resources, and best practices for collaboration among courts and their communities to raise awareness of the necessity for safe and permanent homes for all foster children.

Available materials on permanency and adoption include articles; research reports; more than 60 California cases; toolkits on concurrent planning, family engagement, and other permanency topics; and links to online courses, fact sheets, and resource libraries. The materials are searchable by type of document or by topic, such as adoptability, adoption assessments, concurrent planning, and permanency. The California Dependency Online Guide is available free of charge to all California judicial officers, attorneys, and child welfare professionals, and it is currently used by more than 5,000 subscribers.

Policy implications

The annual resolution declaring November as Court Adoption and Permanency Month continues to be well received and celebrated by courts, court-connected professionals, and the adoption and permanency community.

Comments

This recommendation does not require circulation for comment as part of an official invitation to comment cycle.

Alternatives considered

The Judicial Council could choose not to proclaim November 2019 to be Court Adoption and Permanency Month and instead rely on the resolutions of 1999 through 2018 to promote adoption and permanency activities in November. However, the Family and Juvenile Law Advisory Committee believes that a new resolution each year highlights the ongoing critical need to seek permanence for foster children.

Fiscal and Operational Impacts

Court Adoption and Permanency Month is a voluntary program. Every court can participate at a level it considers appropriate to its jurisdiction. Suggested commemorative events range from no-cost activities for promoting adoption and permanency to higher-cost, system-wide programs.

Participation by families in any special event or project in any court is also voluntary. The emphasis on the month of November is not intended as a rationale for scheduling adoption hearings just so they coincide with a special event. Each case should be heard as soon as it can be calendared, and the families involved should be offered the opportunity to participate in a court's later-occurring event.

¹⁸ See <https://caderpendencyonlineguide.info/index.jsp>.

Attachments and Links

1. Attachment A: Court Adoption and Permanency Month resolution

JUDICIAL COUNCIL OF CALIFORNIA



ADOPTION AND PERMANENCY MONTH R E S O L U T I O N

Whereas, consistent with its commitment to support practices and procedures that promote access to justice and improved case outcomes for California's children and families, the Judicial Council has annually recognized November as Court Adoption and Permanency Month since 1999;

Whereas 490,000 incidents of child abuse and neglect are reported each year in California compared with more than 430,000 reports twenty years ago, and about 21,000 children enter child welfare-supervised foster care for the first time, compared to 27,000 twenty years ago;

Whereas the number of foster children in California living apart from their families in child welfare-supervised out-of-home care has decreased by 44 percent in the last twenty years;

Whereas the proportion of children exiting foster care into a permanent home has increased by 10 percent in the last twenty years, including a 57 percent increase in the proportion of those being adopted;

Whereas 40 percent of the children in foster care in California still live apart from their families for two or more years;

Whereas 3,300 foster children are placed in congregate care rather than with relatives or in home-like settings;

Whereas the percentage of foster children over 10 years old who exit foster care through adoption remains at only 25 percent;

Whereas, while progress has been made, much work still needs to be done to improve the lives of children and families in the child welfare system;

Whereas local courts and communities throughout California have created programs promoting permanency that have resulted in a reduction in the number of children waiting to live in safe, stable, and permanent homes; and

Whereas the Judicial Council remains committed to working with the Governor, the Legislature, and local courts and communities to ensure that every abused or neglected child finds a safe, stable, and permanent home with a loving family as quickly as possible;

Now, therefore, be it resolved that I, Tani G. Cantil-Sakauye, Chief Justice of California, on behalf of the Judicial Council of California, do hereby proclaim November 2019 to be Court Adoption and Permanency Month, during which the courts and their communities are encouraged to join in activities to promote permanency.

In witness whereof,

I have hereunto set my hand this 14th day of November, 2019

Attest:

TANI G. CANTIL-SAKAUYE
Chief Justice of California and
Chair of the Judicial Council of California

MARTIN HOSHINO
Administrative Director
Judicial Council