



Exciting New Developments in Child Welfare Law – 2014!

In 2013, the California legislature was busy – passing dozens of laws affecting the families and children we serve. We have identified the 20 most relevant, and highlighted the top 6. As always, please let us know if you have any comments or questions by contacting Phil Ladew at pladew@californiacasa.org.

1) Initial CASA Training Must Include Cultural Competency and Best Practices for LGBTQ Youth

CASA Programs have some of the best volunteer training around, and there's plenty of it – a minimum of 30 hours of initial training, and 12 hours of continuing education annually. Required topics cover broad areas of understanding and CASA practice, and now – new in 2014 – one specific area: “Cultural competency and sensitivity to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.”

This year, with the passage of [AB 868](#) (2013) CASA programs will need to amend their initial training to include: “Cultural competency and sensitivity to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.” [Assembly Bill 868](#) (2013) also requires that dependency judges and appointed minor's counsel receive training on this topic as well. Otherwise, there is not any specific guidance concerning quality, length, or type of training.

Also note, that California Rule of Court 5.655(d) requires that CASA programs have a “written plan for the initial training” of CASA volunteers. And, since the National CASA Standards require annual updating and improvement of training (Std. 7.C.), it is a good idea to revisit that plan annually.

Bottom line:

- 1) Review your initial training to ensure that it includes all of the required training topics, including the, “Cultural competency and sensitivity to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.”
- 2) Amend your written training plan to include this change

This represents an opportunity for all CASA programs to revise their training and recommit to giving our advocates the training and tools needed to advocate for the civil rights of our youth.

The complete CASA Training requirements can be found online at: <http://californiacasa.org/training/>

2) California Law Allows for More Than Two Parents, Finally

Longstanding law limited the juvenile court to finding only *one* presumed father, and one mother (presumably *presumed*). Now, the law has changed; and it is a good thing (in my opinion). Ever since California law recognized that parentage transcended biology, we have struggled to make the law fit the

best interests of children. Families are complex, they always have been – and for those youth with LGBTQ families, the law was simply discriminatory.

[Senate Bill 274](#) authorizes a court to find that more than 2 persons with a claim to parentage, can – in fact – be parents, if the court finds that recognizing only 2 parents would be detrimental to the child. Also, in the case of a child with more than 2 parents, the new law requires the court to allocate custody and visitation among the parents based on the best interest of the child.

Also, [AB 1403](#) defines “natural parent” as a nonadoptive parent, whether biologically related to the child or not, and finally brings gender neutrality to certain provisions of the code. Now, we have “presumed parent” or “parent” instead of “presumed father” and “father.”

3) Limits on Group Home Placements for Children Aged 6-12

Law has restricted group home placements for children under 6 years old for quite some time; now, those restrictions are expanding all the way to age 12.

Detentions:

[Assembly Bill 74](#) (2013) now restricts detention in a group home for children aged 6-12. Previously, children under the age of six could not be detained in a group home unless the court found that placement was “necessary to secure a complete and adequate evaluation, including placement planning and transition time.” This new law extends the requirement of a court finding of necessity to children who are 6-12 years old as well. Also this group home placement cannot exceed 60 days unless documented by a case plan and approved by the deputy director or director of child welfare (or assistant chief or chief of probation or chief).

This means that detention in a group home is not proper unless and until the court makes a finding of necessity, and even then only for a period of 60 days total (absent a case plan stating otherwise as approved by someone high up in the agency).

Longer Placements:

Also for youth ages 6-12, a group home placement is only proper when case plan indicates certain things, including that the placement is for “short-term, specialized, and intensive treatment.” [Assembly Bill 346](#) (2013) limits group home placements for youth 6-12 years old to 6 months (unless certain circumstances exist) and even then, the case plan must be approved by the deputy director or director of child welfare (or assistant chief or chief of probation or chief).

Note also, that [AB 74](#) (2013) also reflects a “legislative intent” – which is not enforceable law – that children of any age not live in a group home for longer than one year. So this perhaps gives a CASA some moral standing to advocate for stepping a youth down from a group home and into a lesser restrictive environment.

Another tidbit – [AB 346](#) (2013) makes it clear that runaway and homeless youth shelters are not allowable “placements.”

4) No Smoking!

With the enactment of [Assembly Bill 352](#), California has become the 19th state to ban smoking by foster care providers. Now, smoking is prohibited inside the home or facility – and even outside if the child is present. Also, smoking is prohibited in any vehicle that transports the child.

And get this -- violations of this prohibition is a crime – a misdemeanor – punishable by a fine of up to \$1000 or imprisonment in the county jail for up to a year, or both (as a violation of the Community Care Facilities Act)!

I know what you're asking – does this apply to relatives and NREFM homes as well? The Assembly and Senate went back and forth on whether to exempt relatives and NREFMs, and ultimately decided to *not exempt* relatives and NREFMs in this prohibition. So Agencies will likely be taking smoking into consideration when placing, or maintaining the placement of children with relatives and NREFMs.

Also, note, that in my (Phil's) opinion, the law might not be written precisely enough to criminally prosecute relatives or NREFMs. Relative homes and NREFMs are "approved," not "licensed" or "certified" in California; thus, the language of the new law does not align well with the Community Care Facilities Act. So, while the Agency might use the law in its decision-making, it will likely be difficult to criminally prosecute an offender – which is perhaps a good thing considering criminal history affects their ability to be approved for placement! So, we shall wait and see how this plays out.

5) NREFMs Definition Revision

Previously, in order to qualify as a nonrelative extended family member (NREFM), the person had to have a familial or mentoring relationship *with the child*. This law expands the definition of a NREFM to include an adult caregiver who has an established familial relationship *with a relative* of the child. This expands the number of individuals that qualify as a NREFM placement option; keeping families together. However, it perhaps means a more difficult transition from the child's perspective, as this will still be "stranger" foster care (as some would put it).

6) Social Worker Visits

We all know that existing law requires the social worker to visit the youth every month. Gone are the days where visitation waivers allowed social workers to skip a month – or three – or six. [Senate Bill 342](#) (2013) adds the requirement that social workers conduct some of their monthly visits in the residence of the child.

In fact, no more than two consecutive monthly visits happen outside the child's home, and if a visit does occur outside of the home, the social worker (or probation officer) must document in the case file and in the court report the location of the visit and the reason for the visit occurring outside the home.

Also, [Senate Bill 342](#) (2013) requires the social worker (or probation officer) to advise the foster child of the right to request a private (i.e. not in the presence or immediate vicinity of the caregiver or group home staff) discussion outside the group home or foster home. The social worker can have the private discussion during the same visit (i.e. the social worker does not have to reschedule the visit), but needs to tell the child they can talk privately – and then do so.

Full List of California Child Welfare / Foster Care Legislation
Enacted 2013

SB = Senate Bill

AB = Assembly Bill

Bill Number	Author	What it does
AB 74	Committee on Budget	<p><i>(In Budget Bill) Group Home Detention for Children age 6-12</i></p> <p>This bill restricts detention in a group home for children aged 6-12. Previously, children under the age of six could not be detained in a group home unless the court found that placement was “necessary to secure a complete and adequate evaluation, including placement planning and transition time.”</p> <p>This bill extends the requirement of a court finding of necessity to children who are 6-12 years old as well. Also this group home placement cannot exceed 60 days unless documented by a case plan and approved by the deputy director or director of child welfare (or assistant chief or chief of probation or chief).</p> <p>Reflects “legislative intent” – which is not enforceable law – that children of any age not live in a group home for longer than one year.</p> <p>See also, AB 346 for post-detention group home placement of children ages 6-12.</p>
AB 176	Campos (D)	<p><i>Family Law: Protective and Restraining Orders</i></p> <p>Gives law enforcement an order to follow when there are more than one protective/restraining orders. Law enforcement should enforce protective order first, then a no-contact order, and if neither of those exist, the officer should enforce whichever order was issued last. (Note, the bill does not change the fact that criminal restraining orders trump juvenile court restraining orders.) Effective July 1, 2014.</p>
AB 216	Stone (D)	<p><i>High School Graduation Requirements: Foster Care Pupils</i></p> <p>Previous law exempted foster youth who transferred high schools after their second year from local, additional graduation requirements unless the school could show that the youth could complete the requirements.</p> <p>This bill reworks many of those provisions to make it easier for foster youth to graduate. Schools cannot withdraw an exemption once given, schools can only require the additional requirements if they can be completed by the fourth year of high school, youth can stay a fifth year under some circumstances, etc.</p> <p>Effective 9/23/2013.</p>
AB 309	Mitchell	<p><i>CalFresh Homeless Youth</i></p> <p>This bill makes homeless (aka unaccompanied) children and youth are eligible for CalFresh benefits.</p>

AB 346	Stone (D)	<p><i>Runaway and Homeless Youth Shelters (also Group Home Placements for 6-12 Year Olds)</i> Runaway and homeless youth shelters are not allowable “placements” when a child is removed per Welf. & Inst. Code § 361.</p> <p>Also for youth ages 6-12, a group home placement is only proper when case plan indicates certain things, including that the placement is for “short-term, specialized, and intensive treatment.” The bill limits group home placements for youth 6-12 years old to 6 months unless certain circumstances exist. Also, the case plan must be approved by the deputy director or director of child welfare (or assistant chief or chief of probation or chief).</p> <p>See also, AB 74 for limitations on detention in group homes for children aged 6-12.</p>
AB 352	Hall (D)	<p><i>Foster Care: Smoke-Free Environment</i> Bill prohibits a person who is licensed or certified to provide residential care in a foster family home or certified family home to smoke or permit any other person to smoke inside the facility at any time, or even outside when the child is present.</p> <p>Also prohibits a licensed or certified person from smoking in a vehicle regularly used for transporting the child.</p> <p>Violations are criminal misdemeanors – punishable by fine of up to \$1000, up to one year in county jail, or both.</p>
AB 406	Torres (D)	<p><i>Child Abuse Reporting</i> Extends existing law that authorizes counties to establish a child abuse multidisciplinary personnel team to allow provider agencies to share confidential information in order to investigate reports of suspected child abuse or neglect or for the purpose of child welfare agencies making detention determinations.</p>
AB 545	Mitchell (D)	<p><i>Dependent children: placement: nonrelative extended family member</i> Previously, in order to qualify as a nonrelative extended family member (NREFM), the person had to have a relationship with the child. This law expands the definition of a NREFM to include an adult caregiver who has an established familial relationship with a relative of the child.</p>
AB 652	Ammiano	<p><i>Child Abuse Reporting Act: Homeless Children</i> Provides that the fact that a child is homeless or is classified as an unaccompanied minor is not, in and of itself, a sufficient basis for reporting child abuse or neglect.</p>
AB 643	Stone (D)	<p><i>Public Schools: Pupil Records: Confidentiality</i> Amends existing law that prohibits a school district from permitting access to pupil records to any person without written parental consent or judicial order. Makes various changes to these provisions to conform them to federal law.</p>

AB 787	Stone (D)	<i>Foster Care</i> Relates to allowing a nonminor dependent to reside with a parent or guardian. Authorizes the court to order a nonminor dependent to reside in the home of a parent or former guardian if the court determines the dependent may safely reside in that home, and to terminate or continue jurisdiction. Requires the court to hold periodic hearings for nonminor dependents, and requires a social worker or probation officer to file a specified report. Relates to court dependency jurisdiction and public assistance.
AB 848	Patterson (R)	<i>Adoption</i> This bill permits an abbreviated assessment or home study for a licensed or certified foster parent with whom the child has lived for a minimum of 6 months, an approved relative caregiver or nonrelated extended family member with whom the dependent child has had an ongoing and significant relationship, a court-appointed relative guardian of the child, or a prospective adoptive parent who has completed an agency-supervised adoption within the last 2 years.
AB 868	Ammiano (D)	<i>Courts: Training Programs: Gender Identity</i> Requires dependency judges, CASAs, and appointed minors' attorneys have training on cultural competency and sensitivity relating to and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.
AB 1006	Yamada (D)	<i>Juvenile Court Records Sealing and Destruction</i> After January 1, 2015, courts and probation departments will have to notify youth about their eligibility for, and the process to, seal delinquency records.
AB 1108	Perea (D)	<i>Sex Offenders: Foster Care Homes: Prohibitions</i> Prohibits certain registered sex offenders, from residing (except as a client), working, or volunteering in foster homes or facilities; a violation is a misdemeanor.
AB 1403	Committee on Judiciary	Defines "natural parent" as a nonadoptive parent, whether biologically related to the child or not. The bill also makes certain provisions gender neutral and refer instead to a "presumed parent" or "parent." See also SB 274 .
SB 177	Liu (D)	<i>Homeless Youth Education Success Act</i> Requires a homeless child or youth to be immediately deemed to meet residency requirements for participation in interscholastic sports or other school extracurricular activities. Requires public schools and county offices of education to immediately enroll a homeless child or youth seeking enrollment. Requires state agencies to identify representatives to develop policies regarding homeless youths. Requires a local educational agency liaison to ensure public notice of homeless youth educational rights.
SB 274	Leno (D)	This bill authorizes a court to find that more than 2 persons with a claim to parentage, are parents if the court finds that recognizing only 2 parents would be detrimental to the child. Also, in the case of a child with more than 2 parents, requires the court to allocate custody and visitation among the parents based on the best interest of the child. See also AB 1403 .

<p>SB 342</p>	<p>Yee (D)</p>	<p><i>Foster Children: Social Worker: Visits</i></p> <p>Existing law requires the social worker to visit the youth every month. This bill adds the requirement that the visits be in the home the child lives, such that no more than two consecutive monthly visits happen outside the child's home.</p> <p>If a visit does not occur in the home of the child, the social worker or probation officer must document in the case file and in the court report the location of the visit and the reason for the visit occurring outside the home.</p> <p>Requires the social worker or probation officer to advise the foster child of the right to request a private (i.e. not in the presence or immediate vicinity of the caregiver or group home staff) discussion outside the group home or foster home.</p>
<p>SB 528</p>	<p>Yee (D)</p>	<p><i>Dependents: Care and Treatment: Minor and Nonminor Parents</i></p> <p>Clarifies that dependent youth have the right to consent to medical care in the same manner as those not under the court's jurisdiction (i.e. minor-consent for health care related to issues like reproductive rights, sexual assault, contagious diseases, mental health treatment and treatment for alcohol and drug abuse, etc.) regardless of court orders or emergency situations allowing social workers to authorize medical care.</p> <p>Authorizes social workers to provide youth in care information regarding age appropriate and medically accurate information about STDs and reproductive health services.</p> <p>Declares legislative intent for child welfare agencies to support dependent youth who are parents themselves, including the ability to attend school have access to child care, and placements supportive of their parenting.</p> <p>Also clarifies that the "Foster Youth Bill of Rights" found at Welf. & Inst. Code § 16001.9 applies to nonminor youth in foster care as well as minors.</p>