

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 8, 1988

ALL-COUNTY INFORMATION NOTICE NO. 1-06-88

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY COUNSELS

SUBJECT: SENATE BILL (SB) 243 (CHAPTER 1485, STATUTES OF 1987)

The purpose of this All-County Information Notice (ACIN) is to share a summary of the provisions of SB 243 (Chapter 1485 Statutes of 1987) that was prepared by Ms. Diane Nunn of the Permanent Families Project of the Superior Court of Los Angeles. The attached summary includes a general overview of the provisions of SB 243 and a summary of the statutory changes which became effective January 1, 1988.

For purposes of clarification please note that, in the last sentence on the first page "may" should read "shall" pursuant to the provisions of SB 243.

Questions regarding specific legal interpretations of SB 243 should be addressed to your local County Counsel. Questions regarding the delivery of Child Welfare Services may be addressed to your Adult and Family Services Operations consultant at (916) 445-0623.

A handwritten signature in cursive script, appearing to read "Loren D. Buter".

LOREN D. BUTER  
Deputy Director  
Adult and Family Services

Attachment

cc: County Welfare Directors Association

# The Superior Court

## PERMANENT FAMILIES PROJECT

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PRESIDING JUDGE, JUVENILE COURT

JAIME CORRAL  
SUPERVISING JUDGE, DEPENDENCY

FRANK S. ZOLIN  
COUNTY CLERK/EXECUTIVE OFFICER

JOHN CREAMER  
DIRECTOR

DIANE NUNN  
ASSISTANT DIRECTOR

RITA GREGG  
PROGRAM SPECIALIST

November 10, 1987

TO: All Dependency Court Judicial Officers

FROM: Diane Nunn 

SUBJECT: SENATE BILL 243 (PRESLEY), CHAPTER 1485 OF THE STATUTES  
OF 1987

SB 243 extensively revises the laws relating to dependent children of the juvenile court. The following is a general overview of the changes that will occur as the result of the passage of SB 243.

1. Changes to Jurisdictional Definitions, Vertical Representation of Parents, and Termination of Parental Rights Procedures - Delayed Implementation

The most significant revisions to the dependency laws, those relating to jurisdictional definitions, attorney representation for parents, and termination of parental rights, DO NOT become operative until January 1, 1989 or later. A comprehensive summary, outlining these specific revisions, will be distributed at a future date.

A brief explanation of these changes and the reasons for the delayed implementation follows:

a. WIC Section 300

This Section was amended to redefine and clarify the jurisdictional grounds for declaring children dependents of the juvenile court by describing with more specificity the circumstances which constitute abuse and neglect.

The revisions to Section 300 were delayed until January 1, 1989 to allow time for all members of the child welfare community and dependency court system to become familiar with these important changes and to provide an opportunity for adequate training. A further revision to subdivision (c) of the new 300 may become effective January 1, 1990.

A companion bill, SB 834 (Presley) was enacted and provides for the establishment of a funded statewide coordinated multipurpose training program for participants in the child welfare system.

This program along with other educational symposiums will hopefully address the recognized need for uniform training that has existed since SB 14 (Presley) was enacted in 1982 to bring California in compliance with the Federal Adoption Assistance and Child Welfare Act of 1980 (PL 96-272).

CJER has already planned to provide training on SB 243 for bench officers at its Spring Juvenile Law and Procedures Institute next April.

b. WIC Section 317

This Section was amended to mandate vertical representation of parents, who request court-appointed attorneys, when the minor has been placed in out-of-home care or when the petitioning agency recommends such placement.

This Section was tied to the enactment of a trial court funding bill which provided for State funding for trial court operations and included court-appointed counsel in juvenile court dependency proceedings in its definition of "court operations". The passage of SB 709 making the Trial Court Funding Act of 1985 operative on July 1, 1988, and containing in its definition of court operations the relevant court-appointed counsel provision, should provide the necessary prerequisite for implementing this Section.

This Section should therefore become operative on January 1, 1989.

Note: This Section incorporates all of the amendments to Section 318 (see attachment). Section 318 is repealed if Section 317 becomes operative.

c. C.C. Section 232 and WIC Sections 366.21, 366.22, 366.23, and 366.26

These Sections were amended to establish new procedures for the termination of parental rights for dependent children and move the provisions relating to the adoption of dependent children from the Civil Code to the Welfare and Institutions Code.

These changes become effective January 1, 1989 to coincide with the revisions to the jurisdictional definitions and appointment of counsel provisions.

Other provisions, including amendments to WIC Section 306 revising the conditions upon which a social worker may take a minor into temporary custody and technical changes to correct cross-references, do not become effective until January 1, 1989. These will also be summarized at a future date.

2. Statutory Changes Taking Effect January 1, 1988

The majority of the amendments effective January 1, 1988 involve technical changes either rewording sections for clarity or correcting cross references.

Several important changes do become operative, however, on January 1, 1988. These changes include the following:

- a. Juvenile Court will have sole authority to make custody orders for dependent children (WIC 301, 304).
- b. Peace officer must have reasonable cause to believe minor is person described in WIC 300 and is in immediate danger of continued abuse or physical environment is dangerous (WIC 305).
- c. Court must determine if conflict of interest exists between minor and petitioning agency; and  
Attorney for minor over four years of age must interview minor (WIC 318).
- d. Court must determine if reasonable efforts were made by petitioning agency at detention hearing. Section specifies services to be considered by court (WIC 319).
- e. Content of guardianship report and procedures for guardianship proceeding were moved from Probate Code to Welfare and Institutions Code (WIC 366.25).

Attached for your information is a list of all Sections of the Welfare and Institutions Code amended by SB 243, effective January 1, 1988, with a brief description of each statutory revision.

DN:mjg

Attachments

cc: Hon. Kathryn Doi Todd, Presiding Judge, Juvenile Court  
Hon. Jaime Corral, Supervising Judge, Juvenile Dependency  
Frank Zolin, County Clerk/Executive Officer  
Eric Webber, Assistant Executive Officer  
John Creamer, Director, Juvenile Court Services  
Jim Shepard, Division Chief, Juvenile Court Services  
Charlene Saunders, Dependency Court Coordinator  
Marcia Goodman, Assistant Dependency Court Coordinator  
Rhonda May-Rucker, Law Clerk, Juvenile Court  
Rita Cregg, Sr. Program Specialist, Permanent Families Project

STATUTORY CHANGES EFFECTIVE JANUARY 1, 1988 (SB 243)

1. Section 206

This Section was amended to delete the secure facilities requirement for minors alleged or adjudged to come within existing 300 (c). The Section now requires that all 300 minors be placed in nonsecure facilities.

2. Section 280

A technical change was made to include cross reference to new Section 366.21.

3. Section 300.1

A technical change was made to correct cross reference.

This Section should have been amended last year when the subdivision relating to children freed for adoption was renumbered from 300 (e) to 300 (f).

This Section will be amended again on January 1, 1989 to reflect the renumbering from current subdivision (f) to subdivision (h) in new Section 300.

4. Section 303

This Section was renumbered from current Section 301.

5. Section 301

This Section was added to provide that

- both parents are to receive notice of all hearings unless their parental rights have been terminated
- the juvenile court may assume 300 jurisdiction over a minor regardless of custody status of either or both parents
- whenever the probation officer is required to present a report to the court, the probation officer shall also provide a copy of the report personally or by mail to the parents or counsel prior to the hearing
- the determination of custodial rights of dependent children shall be solely in the juvenile court

6. Section 304

This Section was added to provide that no other division of the Superior Court other than the juvenile court, may make Civil Code Section 4600 custody orders for dependent children. This Section also allows the juvenile court to review any records available to the Superior Court domestic relations division.

7. Section 304.5

This Section, allowing other divisions of the Superior Court to hear custody cases involving dependent children, was repealed.

8. Section 305

This section was amended to specify the condition upon which a peace officer may take a minor into temporary custody.

Subdivision (a) was amended to provide that a peace officer may take a minor into custody when the officer has reasonable cause to believe that the minor is a person described by Section 300 and in addition that the minor has an immediate need for medical care, or is in immediate danger of continued abuse, or the physical environment poses an immediate threat to health or safety.

A new subdivision (b) has been added and provides that an officer may take a minor into custody who is in the hospital and whose release to a parent poses an immediate danger to the health or safety of the child.

Subdivision (c) was renumbered from current subdivision (b) and was reworded for clarity and to correct cross references.

Subdivision (d) was renumbered from current subdivision (c) and reworded for clarity.

9. Section 308

This section was amended to add that the county welfare department must make a diligent effort for all detained children to ensure telephone contact between parent and child prior to the detention hearing unless detrimental to child. This requirement also applies to those children taken into custody whose whereabouts are not being disclosed to the parent.

This Section also narrowed the right to make two telephone calls at public expense to minors 10 years of age or older. It is discretionary for children under 10.

10. Section 309

Subdivision (a) (1) of this Section was amended to delete the provision "or has no parents... actually exercising this care and control" from the circumstances under which the probation officer can maintain a child in custody.

Subdivision (a) (2) was amended to include the provision "and there are no reasonable means by which the minor can be protected in his or her home or the home of a responsible relative" in addition to the existing immediate and urgent necessary requirements for continued detention.

A technical change was also made so that the reference to Section 300 was broadened to include all subdivisions.

11. Section 315

This section was amended to add for clarification that a detention hearing must be held if minor has not been released "to parent or guardian."

12. Section 316

This Section was reworded for clarity.

13. Section 318

This Section was amended to contain several important changes relating to the appointment of counsel for minors.

Subdivision (a) was amended to delete the mandatory requirement for the appointment of counsel for minors in 300 (d) cases. Appointment of counsel for minors is discretionary in all cases filed under Section 300.

A new provision was added clarifying the responsibility of the court to make a determination if a conflict of interest exists between the petitioning agency and the minor. Also adds that the fact the DA represents minor in 300 cases and files criminal complaint is not automatic conflict (Not applicable in L.A.).

Subdivision (d) was amended to include a provision that counsel for any minor four years of age or older shall interview the minor to determine minor's wishes and assess minor's well-being. Technical change to delete cross reference to penal code.

This Section shall be repealed on January 1, 1989 if Section 317 becomes operative on that date. All the amendments in 318 are included in 317.

14. Section 319

This Section was amended to add for continued detention a requirement of a prima facie showing that the minor comes within section 300.

Subdivision (c) was amended to delete "that the minor has violated an order of the juvenile court" as a consideration for deciding whether the minor should continue to be detained.

This Section was further amended to require the court to make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal and specifies a list of services to be considered by the court in making that determination.

"First Cousin" was deleted from the definition of relative in this Section.

15. Section 328

This Section was reworded for clarity.

16. Section 332

This Section was reworded for clarity.

17. Section 335

This Section was amended to require service of petition on minor 10 rather than 14 years or older.

18. Section 336

This Section was reworded for clarity.

19. Section 340

This Section was amended to delete dangerous conduct of minor as basis for issuance of warrant and to add provision for issuance where dependent minor has run away from court ordered placement.

The Section was also amended to rename warrant of arrest to protective custody warrant to avoid possibility of arrest record for dependent minor.

20. Section 342

This section was added to specify procedures for filing a subsequent petition whenever new facts indicate reasonable cause to believe that a minor who is already adjudicated under Section 300 may also fall within another subdivision of 300.

21. Section 345

Technical changes were made to correct cross references.

22. Section 350

This Section was amended to add new subdivision (c) specifying procedures for entertaining motions, including those for dismissal, where the petitioning agency bears the burden of proof.

23. Section 353

This Section was reworded for clarity and was amended to cross reference appointment of counsel provisions in Sections 317 and 318.

24. Section 355

This Section was amended to include the word "jurisdictional" before the word hearing to clarify purpose of hearing.

Changes were made in the last sentence substituting the words "parent or guardian" for "minor" in providing that if parents are not represented by counsel at the hearing objections which could have been made will be deemed to have been made.

25. Section 355.1

This Section was amended to consolidate and clarify existing presumptions described in Sections 355.1 - 355.7.

Subdivision (a) combines and replaces sections 355.1 - 355.4 and provides that certain specified evidence relating to injury of minor and conduct of parent shall be prima facie in finding that a minor is a person described in 300 (a), (b) or (d).

Subdivision (b) was renumbered from current Section 355.5.

Subdivision (c) rewords current Section 355.6 for clarity.

Subdivision (d) rewords current Section 355.7 to delete reference to 300 (a) or (d) and provides that testimony by a parent in any 300 proceeding is not be admissible in other court actions.

26. Section 358

Changes were made to correct and clarify cross references.

All references in this Section to Section 361.5 were amended to 361.5 (b) for clarification.

Subdivision (a) (2) was amended to provide that a continuance under this Section shall not exceed 30 days after the finding pursuant to Section 356 that a minor is a person described in Section 300. Currently this subdivision states that the continuance shall not exceed 30 days after the filing of the petition. This subdivision created confusion in cases where the hearing under Section 356 had been held 30 or more days after the filing of the petition.

Subdivision (a) (3) was amended to delete reference to C.C. 232 and to provide instead that the probation officer shall notify each parent "that his or her parental rights may be terminated within the time frames specified by law."

Subdivision (c) was amended to conform to changes last year when the subdivision relating to children freed for adoption was renumbered from 300 (e) to 300 (f).

This Section will be amended again on January 1, 1989 to modify reference in subdivision (c) or this Section to reflect renumbering in new Section 300.

27. Section 361

A technical change was made in subdivision (b) (2) to include cross reference to new Section 366.26. Reference to Section 232 of the Civil Code is deleted.

28. Section 361.5

This Section was amended to include in subdivision (a) a cross reference to Section 366 (a) for required findings when the court has ordered reunification services.

Subdivision (e) was amended to require reunification services for incarcerated parents unless the court determines those services would be detrimental to minor. Specifies factors to be considered in determining detriment and possible services.

Subdivision (f) was amended to provide that if the court does not order reunification services, the court shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing. (NOTE: The time period in which to conduct the permanency planning hearing under Section 366.25 was extended from 60 to 120 days.) Current provisions for conduct of permanency planning hearing were deleted.

A new subdivision (g) was added to specify the content of the assessment to be completed by the welfare department for the permanency planning hearing.

Technical changes to correct cross references were also made.

29. Section 366.1

A technical change was made in subdivision (c) to delete cross reference to Section 232 of the Civil Code.

30. Section 366.2

This Section was amended to add a new subdivision (f) which limits the application of this Section to minors made dependents of the court prior to January 1, 1989.

31. Section 366.25

This Section was amended to add the words "including relative caretakers" after references to minor's foster parents.

Subdivision (e) was amended to

- clarify that guardianship proceedings for dependent minors under this Section shall be in the juvenile court
- specify procedures for the guardianship proceeding
- describe the content of the report concerning the proposed guardianship

A new subdivision (i) was added to limit the application of this Section to minors made dependents of the court prior to January 1, 1989.

32. Section 390

This Section was reworded for clarity, substituting "parent or guardian of the minor" for "minor" in the finding regarding the need for rehabilitation.