

Important New Legislation for 2023 Affecting Dependency Cases

2023 brings a number of statutory changes affecting dependency proceedings. What follows is a compendium of new legislation affecting dependency cases that was signed by the Governor back in September 2022, which will take effect January 1, 2023. It was provided by JCART in its September 2022 newsletter. JCART is the acronym for “Juvenile Cases, Articles, Resources, and Training.” This website is a valuable resource for juvenile law practitioners: jcart@jud.ca.gov. The hyperlinks connect to the California Legislative Information website and the text of the bills.

Of particular note are the provisions in:

- **[AB-2159 Reunification services](#)**: prohibits the juvenile court from denying reunification services to an incarcerated parent *who has not been convicted*, unless there is some other basis for denying them services.
- **[AB-2866 Dependent children](#)**: requires reasonable services findings be made by clear and convincing evidence *at each review hearing*;
- **[SB-1085 Juveniles: dependency: jurisdiction of the juvenile court](#)**: *modifies section 300(b)* to make clear that no child should be found within the court’s jurisdiction *due to indigence or financial difficulty “including, but not limited to, poverty, the inability to provide or obtain clothing, home or property repair, or childcare.”* This bill also reorganized subdivision (b) so that the separate grounds for finding neglect are not jumbled all together in one, confusing run-on sentence. It will read:

(b) (1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of any of the following:

- (A) The failure or inability of the child’s parent or guardian to adequately supervise or protect the child.

(B) The willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left.

(C) The willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment.

(D) The inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.

(b)(2) A child shall not be found to be a person described by this subdivision solely due to any of the following:

(A) Homelessness or the lack of an emergency shelter for the family.

(B) The failure of the child's parent or alleged parent to seek court orders for custody of the child.

(C) Indigence or other conditions of financial difficulty, including, but not limited to, poverty, the inability to provide or obtain clothing, home or property repair, or childcare.

This bill also *added subdivision (b) to section 300.2* to make clear children should not be detained due to financial difficulties unless there is a nexus between parental action or inaction and harm or a substantial risk of harm:

300.2 Purpose of Chapter:

(a) . . .

(b) It is the intent of the Legislature that families should not be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based on conditions of financial difficulty, including, but not limited to, a lack of food, clothing, shelter or childcare. Reasonable services to prevent juvenile court intervention or children being separated from their parents include services to alleviate a potential risk to a child based on conditions of financial difficulty, including, but not limited to, referrals to

community-based organizations. Consistent with existing law, no family should be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based on conditions of financial difficulty unless there is willful or negligent action or failure to act and a nexus to harm such that the child has suffered or there is a substantial risk the child will suffer serious physical harm or illness.

Additional new legislation also includes the following with the JCART summary of with hyperlinks to the legislation:

- [**AB-58 Pupil health: suicide prevention policies and training**](#): Pupil health: suicide prevention policies and training: Requires local educational agencies to update their policies on pupil suicide prevention and revise training materials and identify best practices, including guidance on how to conduct suicide awareness and prevention training remotely[.]
- [**AB-740 Foster youth: suspension and expulsion**](#); Foster youth: suspension and expulsion: Requires written notice to be provided to a foster child's educational rights holder, attorney, and county social worker of the right to initiate a hearing before a neutral officer when a foster child who attends a charter school is sought to be suspended or expelled by the charter school. Provides the above persons with the same right a parent or guardian has to receive a suspension or expulsion notice and other documents.
- [**AB-1051 Medi-Cal: specialty mental health services: foster children**](#): specialty mental health services: foster children: Applies presumptive transfer provisions for outpatient special mental health services for foster children in short-term residential treatment programs (STRTPs) or children's crisis residential programs under certain conditions.
- [**AB-1686 Child welfare agencies: enforcement**](#): Creates presumption in family reunification cases that requiring parents to pay child support payments for foster care costs for their children would likely pose a barrier

to the proposed reunification. Requires the Department of Social Services to revise regulations to reflect new presumption.

- [**AB-1735 Foster care: rights**](#) Foster care: rights: Requires foster care bill of rights to be provided to foster children in their primary language. It also requires the court report, case plan, and transition to an independent living plan to be provided to the child in their primary language.
- [**AB-1914 Resource family approval: training**](#): Requires that resource families complete CPR and first aid training within 90 days of Resource Family Approval (RFA). Creates exemptions for RFA parents with a health care professional license or a life-support-related CPR certificate.
- [**AB-2085 Crimes: mandated reporters**](#): Limits of “general neglect” under child abuse or neglect as the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred. Limits the definition of general neglect to only include circumstances where the child is at substantial risk of suffering serious physical harm or illness and would provide that general neglect does not include a parent’s economic disadvantage.
- [**AB-2159 Reunification services**](#): Prohibits the denial of reunification services for parents and guardians in a custodial institution before conviction unless there is another basis for denial of reunification services under another provision of law. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent’s or guardian’s access to those court-mandated services and ability to maintain contact with the child and shall document this information in the child’s case plan. The same time limitations apply in family reunification cases as defined in Welfare and Institutions Code section 361.5 (a).
 - [**AB-2309 Guardianships**](#): Requires parent to execute written waiver of family maintenance or family reunification services before juvenile court

orders a legal guardianship in dependency cases. If the parent designates a specific person to be the child's guardian, and there is no objection by the child or the child's legal counsel, and the court finds that the proposed guardian agrees to the appointment as the child's guardian, as well as all rights and responsibilities of being a legal guardian, the court would be required to appoint the proposed guardian unless it finds by a preponderance of the evidence that the person's appointment would be contrary to the best interests of the child.

- **[AB-2595 Juveniles: dependency: jurisdiction of the juvenile court::](#)** Requires the Department of Social Services to update all regulations, all-county letters, and other instructions regarding child abuse or neglect investigations to ensure that a parent's or guardian's use of cannabis is treated in the same manner as use or possession of alcohol and legally prescribed medication.
- **[AB-2832 Whole Child Community Equity](#)**: Requires the Department of Social Services and Department of Education, along with early childhood stakeholders, to develop the Whole Child Equity Framework (Framework) and Whole Child Community Equity Screening Tool (Equity Tool) to provide data need to support the equitable distribution of resources and monitor progress on addressing racial and economic equities. Mandates workgroup to provide recommendations to the Department of Social Services, including parents and families from historically underserved communities and other stakeholders. DSS must finalize and present the Framework, Equity Tool, and their recommended uses to the Legislature by 2025 and publish their data and methodology for public use.
- **[AB-2866 Dependent children](#)**: Requires reasonable services determinations to be made by the juvenile court under the clear and convincing standard evidentiary standard at the 6-month review hearing, 12-month review hearing, and 18-month review hearings to consider family reunification for a dependent child.

- **SB-116 Human services**: Authorizes the social worker to place the child in the home of a relative in which the juvenile court has authorized placement, regardless of the status of any criminal record exemption or resource family approval, if the court has found that the placement does not pose a risk to the health and safety of the child.
- **SB-384 Juveniles: relative placement: family finding**: Requires county welfare departments and probation departments to notify the Department of Social Services whether it has adopted certain practices for family finding and provide documentation. Specifies that the required due diligence of the social worker or probation officer shall include family finding, which is defined as conducting an investigation to identify relatives and kin and to connect a child or youth who may be disconnected from their parents with those relatives and kin to provide family support and possible placement.
- **SB-528 Juveniles: medication documentation**: Requires that certain pages of the court-approved documentation for medication administration for a dependent child or ward be signed by the juvenile court (JV-220) and all medication information sheets attached thereto to be provided to the child's or ward's caregiver.
- **SB-1085 Juveniles: dependency: jurisdiction of the juvenile court**: Prohibits child from being found to be within the jurisdiction of the juvenile court as a dependent child solely due to indigence or other conditions of financial difficulty.
- **SB-1090 Family Urgent Response System**: Expands statewide hotline (Family Urgent Response System) to respond to calls from a child or youth placed in foster care and is the subject of a petition to declare them a dependent child, as well as a current or former foster youth.