

DEPARTMENT OF SOCIAL SERVICES

March 27, 2000

ALL COUNTY LETTER 00-22

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: FOSTER CARE – WRITTEN AGREEMENT BETWEEN COUNTY WELFARE DEPARTMENT AND COUNTY PROBATION DEPARTMENT

REFERENCE: ALL COUNTY LETTER (ACL) NO. 99-96

The purpose of this ACL is to provide clarification and further instructions regarding the written agreement (agreement) between county probation and county welfare departments that must be in effect in order to claim Aid to Families with Dependent Children–Foster Care (AFDC-FC) for foster children supervised by the probation department.

The ACL No. 99-96, issued November 2, 1999, advised county probation and county welfare departments that the California Department of Social Services (CDSS) will be promulgating regulations later this year that will update the existing agreement to incorporate pertinent statutory and regulatory changes. Since the release of ACL 99-96, CDSS has received numerous inquiries from counties asking what they should do with their existing agreements until those regulations are implemented. This ACL provides the minimum information counties should incorporate into existing agreements pending implementation of the regulations. The existing agreement is contained within Manual of Policies and Procedures (MPP) Section 29-400, along with the requirements for maintaining this agreement.

County welfare and probation departments should, **at a minimum**, incorporate the requirements of Assembly Bill (AB) 575 (Chapter 997, Statutes of 1999), listed below, into their existing agreements. This measure clarifies the responsibilities and placement activities to be performed by county probation departments for wards that are appropriately placed in foster care. It requires that the same judicial oversight and legal requirements provided to dependents are also provided to delinquents placed in foster care. It amends and adds pertinent sections to the Welfare and Institutions Code (WIC) regarding services and placement requirements relative to wards. Counties are also strongly encouraged to become familiar with the entire text of AB 575.

A. UPDATES TO EXISTING AGREEMENTS

Since this ACL provides an interim process to be used prior to implementation of regulations, CDSS will not require counties to follow any specific format or template for updating their agreements. However, it may be helpful to use the basic format style for the existing agreement in MPP Section 29-400.

Counties shall use the following list, either verbatim or in pertinent part, to update existing agreements. Services and placement activities shall be performed by county probation departments for wards in out-of-home foster care. The corresponding statutory citation for each requirement has also been provided for your reference. These citations represent the new provisions added to WIC by AB 575.

1. Contrary to Child's Welfare

The probation officer is required to release a minor to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the child's welfare.
(*WIC Section 628*)

2. Court Findings (Contrary to Welfare and Reasonable Efforts)

The court shall make a determination on the record whether continuance in the home of the parent or legal guardian is contrary to the child's welfare, whether reasonable efforts were made to prevent or eliminate the need for removal of the child from his or her home, and whether there are available services that would prevent the need for further detention. (*WIC Section 636*)

3. Case Plan

The probation officer shall complete a case plan within 30 calendar days of the initial removal or by the date of the disposition hearing, whichever occurs first.
(*WIC Section 636.1*)

4. Case Plan Requirements

The case plan shall include, but not be limited to, the following:

- a) A description of the circumstances that resulted in the child being placed under the supervision of the probation department and in foster care.
- b) An assessment of the child's needs and the type of placement best equipped to meet them.

- c) A description of the type of home or institution in which the child is to be placed.
- d) Specific time-limited goals and related activities designed to enable the safe return of the minor to his or her home, or in the event that return to his or her home is not possible, activities designed to result in permanent placement or emancipation.
- e) The projected date of completion of the case plan objectives and the date services will be terminated.
- f) Scheduled visits between the child and his or her family and an explanation if no visits are made.
- g) 1) When placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or legal guardian or out-of-state, the case plan shall specify the reasons why the placement is the most appropriate and is in the best interest of the child.
2) When an out-of-state group home placement is recommended or made, the case plan shall comply with Section 727.1 of WIC and Section 7911.1 of the Family Code. In addition, documentation of the recommendation of the multidisciplinary team and the rationale for this particular placement shall be included. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended.
- h) If applicable, efforts to make it possible to place siblings together, unless it has been determined that placement together is not in the best interest of one or more siblings.
- i) A schedule of visits between the child and the probation officer, including a monthly visitation schedule for those children placed in group homes.
- j) Health and education information about the child, school records, immunizations, known medical problems, and any known medications the child may be taking, names and addresses of the child's health and educational providers; the child's grade level performance; assurances that the child's placement in foster care takes into account other relevant health and educational information.
- k) When out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail.
- l) When out-of-home services are used and the child's case plan does not provide for adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. For purposes of this subdivision, the phrase "compelling reasons" shall have the same meaning as in subdivision 727.3.
- m) Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.
- n) Parents, legal guardians, and the child shall have an opportunity to participate in the development of the case plan, to review the case plan, to sign it whenever possible, and to receive a copy of the plan.

- o) For a child in out-of-home care who is 16 years of age or older, a written description of the programs and services, which will help the child prepare for the transition from foster care to independent living.

(WIC Section 706.6)

5. Placement Selection

The placement selection shall be based upon selection of a safe setting that is the least restrictive or most family like, and the most appropriate setting that is available and in close proximity to the parent's home, consistent with the selection of the environment best suited to meet the child's needs and best interests. *(WIC Section 727.2)*

6. Status Review Hearings

The status of every child declared a ward and placed in foster care shall be reviewed at the time of the initial placement order and then as determined by the court but no less frequently that once every six months. At each status review hearing, the court shall consider the safety of the child and determine the following:

- 1) The continuing necessity for and appropriateness of the placement.
- 2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the child to the child's home or to complete whatever steps are necessary to finalize the permanent placement of the child.
- 3) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.
- 4) The likely date by which the child may be returned to and safely maintained in the home or placed for legal guardianship or adoption.

(WIC Section 727.3(c))

7. Permanency Planning Hearings

There shall be a permanency planning hearing within 12 months of the date the child entered foster care and periodically thereafter, but no less frequently than every 12 months during the period of placement. The permanency hearing shall determine the permanent plan for the child including, but not limited to, whether the child should be returned to the parent or legal guardian. If the child is not returned to a parent or legal guardian at the permanency hearing, the court shall determine whether or not the child should be referred for adoption proceedings, for legal guardianship, or to an alternative planned permanent living arrangement, including whether, because of the child's special needs or circumstances, the child should be continued in foster care on a permanent basis. *(WIC Section 727.3(f))*

8. Notice Requirements

Notice of the status review or permanency planning hearing shall be mailed by the probation officer to the child, the child's parent or guardian, any adult provider of care to the child including, but not limited to, foster parents, relative caregivers, preadoptive parents, community care facility, or foster family agency and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court. The notice shall also inform the foster parents, relative caregiver, and preadoptive parents that he/she may attend all hearings or may submit any information he/she deems relevant to the court in writing. (*WIC Section 727.4(a)*)

9. Social Study Report

The social study report made by a probation officer that is received into evidence by the court shall include, but is not limited to, the following factual material:

- 1) Progress toward goals established in the case plan previously submitted to the court.
- 2) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.
- 3) The safety of the child and the continuing necessity for and appropriateness of the placement.
- 4) A likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship.
- 5) An updated case plan as specified in Section 706.6.
- 6) Whether the child has been or will be referred to educational services and what services the child is receiving, including special education and related services if the child has exceptional needs.
- 7) Whether the right of the parent or guardian to make educational decisions for the child should be limited by the court pursuant to Section 7579.5 of the Government Code.

(*WIC Section 727.4(b)*)

B. ACCESSIBILITY OF AGREEMENTS

Counties are reminded that maintenance of the agreement is a federal and State mandate for claiming AFDC-FC for foster children supervised by the probation department. County welfare and county probation departments must maintain current and readily accessible copies of the agreement. Failure to do so may jeopardize funding and result in potential audit disallowances. (*WIC Section 11404(a)*)

C. COPIES OF AGREEMENT TO CDSS

The MPP Section 29-400.22 requires the county welfare department to send a copy of any newly-executed agreement to CDSS within ten working days of the date of execution. **Counties should fully execute updated agreements by June 30, 2000, and send a copy to CDSS no later than ten working days after the date of execution, which is July 17, 2000.** This will ensure that agreements are received by CDSS and in place for the beginning of State Fiscal Year 2000/2001.

A fully executed agreement must contain the signatures of both the County Welfare Director and Chief Probation Officer, and date of execution. Copies of newly-executed agreements should be sent to:

California Department of Social Services
Children's Services Operations Bureau
744 P Street, M.S. 19-90
Sacramento, California 95814

If you have any questions about this ACL, please contact your Foster Care Eligibility Program Consultant at (916) 324-5908.

Sincerely,

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

c: County Welfare Directors Association
Chief Probation Officers of California