

Date of Hearing: March 17, 2026

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

AB 1846 (Stefani) – As Introduced February 11, 2026

PROPOSED CONSENT (As Proposed to be Amended)

**SUBJECT:** DEPENDENCY: PLACEMENT OF CHILD WITH RELATIVE

**KEY ISSUE:** SHOULD THE WELFARE AND INSTITUTIONS CODE CLEARLY STATE THAT PREFERENTIAL CONSIDERATION SHOULD BE GIVEN TO A REQUEST BY A RELATIVE FOR PLACEMENT OF A DEPENDENT CHILD THROUGHOUT THE DEPENDENCY COURT PROCEEDINGS?

**SYNOPSIS**

*California's child welfare system is tasked with ensuring the safety of children in the state at risk of abuse, neglect, or abandonment. The most desired outcome of the child welfare system is to keep or reunite children with their parents whenever possible. In circumstances where reunification is not appropriate, courts and social workers then look to place children in a variety of alternative placements, whether that is with a relative, an adoptive family, or with a guardian. Practitioners and stakeholders widely agree that the most ideal placement for a child is with a relative, so long as the placement is otherwise safe and in the child's best interest. Existing law reflects this understanding, and clearly establishes a requirement that courts grant preferential consideration to a request for placement by a relative that meets specified requirements at the early stages of a dependency proceeding. However, it is not clear how far into the dependency proceedings this preferential consideration should be given. This bill seeks to clarify that preferential consideration should be given to a request by a relative for placement of a dependent child at every stage of the dependency court proceedings until the court's final hearing. As currently in print, however, this bill does so in an arguably unwieldy way and imposes an unnecessarily high standard for placement with a relative following an initial petition hearing. Responding to concerns from stakeholders about this heightened standard and the challenges of implementation of the bill in its current form, the author is proposing amendments to streamline the bill. These amendments are incorporated into the SUMMARY and discussed in the COMMENTS sections of this analysis.*

*This bill is sponsored by the California Welfare Directors Association. It enjoys additional support from the Alliance for Children's Rights. There is no known opposition. Should this measure be approved by this Committee it will be heard next by the Assembly Committee on Human Services.*

**SUMMARY:** Clearly establishes that preferential consideration should be given to a request by a relative for placement of a dependent at every stage of the dependency court proceedings. Specifically, **this bill:**

- 1) Requires that, in any case in which a child is removed from the physical custody of their parents, preferential consideration be given to a request by a relative of the child for placement of the child with the relative, until the caregiver preference as described in Welfare and Institutions Code Section 366.26 (k)(1) applies.

- 2) Requires a social worker to assess any relative who requests placement and who has not been previously assessed or found to be unsuitable following the dependent's initial detention hearing and until the caregiver preference as described in 366.26 (k)(1) applies.
- 3) Requires the county social worker and the court to consider the following additional factors if the court has terminated family reunification services prior to the relative's request for placement:
  - a) The relationship of the child with the current caregiver;
  - b) The child's progress towards permanency with the current caregiver;
  - c) The placement preference of the child.
- 4) Grants the social worker discretion to conduct an assessment pursuant to 2) if the social worker complied with the family finding and notice requirements and the relative's initial request for placement is made after family reunification services have been terminated. Authorizes, if the social worker declines to conduct an assessment, the court to order an assessment if requested by any party or the relative if the court finds it is in the child's best interest.
- 5) Exempts parents who were not offered reunification services pursuant to Section 361.5(b) from the bill's provisions.
- 6) States that nothing in this section prevents the court from ordering placement with a relative subsequent to the initial detention hearing or from giving the social worker the discretion for a placement change into the appropriate home of a relative.

**EXISTING LAW:**

- 1) Provides that children may become dependent children of the juvenile court and be removed from their parents or guardian on the basis of abuse or neglect. (Welfare and Institutions Code Section 300. Unless otherwise stated, all further statutory references are to that code.)
- 2) States the intent of the Legislature to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with his or her biological family whenever possible, or to provide a permanent placement alternative, such as adoption or guardianship. (Section 16000.)
- 3) Requires a county to file a petition to the court requesting a detention hearing within 48 hours of placing a child under temporary custody to determine whether a child should remain in custody and whether any specific court permissions are necessary to provide for the health and safety of the child. (Sections 313 and 319.)
- 4) Requires a social worker, within 30 days of taking a child into temporary custody or whenever appropriate, to identify and locate all adults who are related to the child by blood, adoption, or affinity within the fifth degree of kinship and provide for the purposes of informing them of their right to participate in the care and placement of the child, as specified. (Section 309 (e).)

- 5) Requires preferential consideration be given to a request by a relative to have a foster child placed with the relative if the child has been removed from the physical custody of the child's parents. (Section 361.3 (a).)
- 6) Requires preferential consideration be given to a request by a relative to have a foster child placed with the relative whenever a new placement of the child must be made. (Section 361.3 (d).)
- 7) Requires the social worker to provide to the court, in advance of the disposition hearing, a social study or evaluation of the child, which shall include, among other things, information about the child's siblings and the appropriateness of any relative placement. (Section 358.1.)
- 8) Requires a "detention hearing" to be held within 24 hours of the next court day whenever a detention petition is filed with the court. (Section 315.)
- 9) Requires a juvenile court to hold a "jurisdictional hearing" within 15 judicial days of the petition filed to take the child into temporary custody to determine whether the court has jurisdiction to adjudicate the child. (Section 334.)
- 10) Requires a juvenile court to hold a "dispositional hearing" within 60 days of the detention hearing to determine the appropriate placement for the youth if he or she is adjudicated to be a dependent of the court. (Section 352 and 358.)
- 11) Requires a social worker to conduct an investigation in order to identify and locate all grandparents, adult siblings, and other relatives of a child, including any other adult relatives suggested by the parents. Requires the social worker to provide written notice regarding their right to participate in the proceeding to all adult relatives who are identified, except where it is inappropriate to do so. (Welfare and Institutions Code Section 628 (d).)

**FISCAL EFFECT:** As currently in print this bill is keyed non-fiscal.

**COMMENTS:** California's child welfare system is tasked with ensuring the safety of children in the state at risk of abuse, neglect, or abandonment. The most desired outcome of the child welfare system is to keep or reunite children with their parents wherever possible. In circumstances where reunification is not appropriate, courts and social workers then look to place children in a variety of alternative placements, whether that is with a relative, an adoptive family, or with a guardian.

Dependency cases typically begin when someone makes a report of child abuse or neglect to a local child welfare agency. The report triggers a social worker with the agency to investigate the report and determine what actions are necessary to ensure the child's safety. If the social worker determines intervention is necessary, the agency files a petition with the dependency court to make the child a dependent of the court. In the event the child is removed from their parent, an initial detention hearing must be held either on the same day the petition is filed or the next court day. At the detention hearing the court determines whether the child will continue to be separated from their parent or parents, or "detained."

The next step in the dependency court process is the jurisdictional hearing, which must occur no later than 15 days after the petition is filed. At the jurisdictional hearing the court decides whether there is sufficient evidence to indicate that the child falls within the dependency court's

jurisdiction. In other words, the jurisdictional hearing represents the moment a court will decide whether the facts indicate, based on a preponderance of the evidence, that a child suffered or is at risk of suffering abuse or neglect.

Following the jurisdictional hearing, the court must then set a dispositional hearing within 60 days of the initial detention hearing. That timeline is shortened in cases where the child is still detained, and in those circumstances must be held within 10 days of the jurisdictional hearing. At the dispositional hearing, the court must determine whether to dismiss the case, order informal services for the family, or make the child a dependent of the court. A child that is found to be under the jurisdiction of the dependency court is also referred to as a WIC 300 dependent, referencing the statute that establishes the court's jurisdiction. The jurisdictional and dispositional hearings are often held simultaneously. When a court makes the determination that a child is a dependent, it must then decide the best placement for the child. Placements can range from keeping the child in the home with their parent with regular monitoring from the social worker to foster care outside the child's family. Wherever possible, however, courts and local departments strive to keep dependent children within their immediate or extended families.

Ahead of the dispositional hearing, existing law requires the child's social worker to provide the court with a detailed report about the child. The social worker must also investigate each family member they are aware of.

A dependency case is ultimately concluded in a final hearing where a judge can: terminate parental rights and place the child for adoption; appoint a relative as the child's guardian; appoint a nonrelative guardian; place the child with a willing relative; or order that the child remain in foster care. The court may also make relevant orders relating to the Indian Child Welfare Act. (Welfare and Institutions Code Section 366.26.)

***The importance of placement within families.*** Studies have repeatedly shown that children in dependency overwhelmingly benefit from placement within their families. Children who are not placed with their families, whether it is a grandparent, aunt, uncle, or step-sibling, are often not only removed from contact with their families but also from their larger communities. Additionally, placement within the child's family can help facilitate reunification efforts with their parent or parents. Relative or kin placements can range from placement in a family's home while still under the legal custody of a state to a guardianship or even a formal adoption by a family member. These family-based placements can help minimize trauma, increase placement stability, improve behavioral outcomes, and promote stronger relationships with the child's community and culture. (*Kinship Care and the Child Welfare System* (May 2022) Children Welfare Information Gateway and Children's Bureau available at: <https://www.childwelfare.gov/resources/kinship-care-and-child-welfare-system/>.)

In 2009, reflecting the value of family placements, the Legislature codified federal requirements that welfare agencies provide notice to adult grandparents and relatives within 30 days of a child's removal from their parents and placement in foster care. (42 U.S.C. Section 671(a), Welfare and Institutions Code Section 627, 309.) The law requires a social worker to provide each of those family members notice of the proceeding and information regarding their options to participate in the care and placement of the child, except where there is a history of family or domestic violence that makes such involvement inappropriate. (Welfare and Institutions Code Section 628 (d).)

Under existing law, when a family member requests that a child be placed in their home, the courts are required to grant that request preferential consideration. To ensure the placement is safe and secure for the child, the social worker is also required to consider a variety of factors including the best interest of the child, the wishes of the parent where appropriate, the nature of the relationship between the child and the relative, and the ability of the relative to provide certain elements of a beneficial placement such as a safe and stable environment, and facilitate any relevant reunification efforts with the parent. (Welfare and Institutions Code Section 361.3 (a).)

***While the apparent policy of the Legislature has been to encourage placement of dependent children with relatives wherever possible, there is ambiguity about how far into the dependency proceeding that preference extends.*** Unfortunately, Section 361.3 does not specify whether the court's obligation to grant preferential consideration to the relative requesting placement continues beyond the initial dispositional hearing, except that it does apply when a new placement is necessary. It is possible to interpret the statute to impose the preference *only* until the dispositional hearing and *only* when a new placement is necessary. This approach is potentially problematic in circumstances when a relative is either identified or makes the request shortly before the dispositional hearing giving the social worker little to no time to make the necessary evaluations of the relative and their home. On the other hand, courts have interpreted the statute to extend beyond the period when reunification services were terminated, even though there was no apparent need for a new placement. (*In re Isabella G.* (2016) 246 Cal. App. 4th 708.) This patchwork interpretation risks distinct results between counties, rather than continuous attempts to place the child with a relative family member wherever possible.

According to the author:

Every child deserves stability, connection, and love, and for children in our foster care system, those connections often come from extended family. AB 1846 ensures California's kin-first policy applies throughout the entire time a child is in foster care, giving courts clear authority to place children with family whenever it is safe and in their best interest. Research consistently shows that placing foster youth with relatives leads to better outcomes, including fewer placement disruptions, stronger ties to culture and community, and better long-term emotional well-being. But under current law, when a relative comes forward later in the process, the system can make it difficult to prioritize that family connection, leaving children separated from the people who know and love them for months or even years. AB 1846 is about reducing trauma, strengthening families, and making sure our foster care system reflects the simple truth that kids do better when they're with family.

***This bill*** proposes to clarify the ambiguity in existing law that has led to different practices across counties and judicial interpretations by imposing the family placement preference throughout the dependency proceeding until final placement or termination of parental rights under Section 366.26.

As currently in print, this bill would primarily amend Section 361.3 (e) to clarify that if the court does not *initially* place the child with the relative, that does not necessarily preclude a *future* placement with the same relative. This change was intended to be reflective of realities faced by local child welfare agencies that may be in the process of conducting their necessary investigations and drafting reports on the requesting family members at the time of the dispositional hearing. The additional new language inserted into subdivision (e) is likewise

intended to clarify that, regardless of the stage of the dependency process, a court is still required to grant preferential consideration to the requesting family member. The bill as currently in print also imposed additional requirements of the court in the event they opt not to place the child with the requesting family member.

*Author's amendments.* While generally supportive of the bill's intent, stakeholders have raised concerns that the bill in print may not ultimately achieve its goal.

*Amendment 1.* In order to clarify that the courts should grant preferential consideration to requests by relatives for placement of dependent children, the author proposes to amend Section 361.3 (a) as follows:

(a) In any case in which a child is removed from the physical custody of their parents pursuant to Section 361, until the caregiver preference as described in Section 366.26(k)(1) applies, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative, regardless of the relative's immigration status. In determining whether placement with a relative is appropriate, the county social worker and court shall consider, but shall not be limited to, consideration of all the following factors:

As previously discussed, Section 366.26 outlines the procedure for the final step of a dependency proceeding where a court may ultimately terminate parental rights. Subdivision (k) requires a court to grant preferential consideration to an application for final placement of the dependent child from a relative or nonrelative foster parent who has cared for the child and who the agency has found the child has substantial emotional ties to, and where removal from their home would be detrimental to their wellbeing. More briefly stated, courts are required to give deference to placements where a dependent child has already spent a significant amount of time, has developed relationships with, and where removal would be more likely to cause harm to the child.

The amendment proposed by the author and sponsors would essentially say that family member placements that are in the best interest of the child should be given preferential consideration up until the final placement and only second to an application from a placement to which the child is already attached.

*Amendment 2.* The second change to the bill in print would strike the existing language at subdivision (d) that currently grants preferential consideration to relatives and recast it to be subdivision (h). The amendment would place the following language at subdivision (d):

(d)(1) Subsequent to the hearing conducted pursuant to Section 358 and until the caregiver preference as described in 366.26(k)(1) applies, the social worker shall assess any relative who requests placement and who has not been previously assessed or found to be unsuitable.

(2) If the court has terminated family reunification services prior to the relative's request for placement, in addition to the factors described in subdivision (a), the county social worker and the court shall consider:

(A) the relationship of the child with the current caregiver,

(B) the child's progress toward permanency with the current caregiver, and

(C) the placement preference of the child.

**(3) Notwithstanding subsection (1), if the social worker complied with the family finding and notice requirements of Section 309 and the relative's initial request for placement is made after family reunification services have been terminated, the social worker shall have discretion to conduct an assessment. If the social worker does not conduct an assessment, the court may order an assessment upon request by any party or the relative if the court finds it is in the child's best interests. This section does not apply if the parents were not offered reunification services pursuant to 361.5(b).**

This language captures the original intent of the bill but more directly states that until the caregiver preference in 366.26(k) applies, a social worker is required to assess any relative that requests placement, and was not already found to be unsuitable. Additionally, it eliminates any existing ambiguities in case law by stating that preferential consideration shall continue to be given to a request by a relative, but that in such circumstances the social worker and court must additionally consider three factors that reflect the impact of the potential change on the dependent child. Finally, the language in (3) addresses the scenario where a parent or other relative identifies another relative that was previously unknown to the social worker or the court after reunification services have been terminated. In these cases, where social workers have already complied with their statutory obligations to investigate and review each potential family placement, the sponsors believe it is appropriate to grant the social worker the discretion to determine whether this newly discovered relative should be assessed for placement at all. As a safeguard against a social worker who opts not to conduct an assessment for unsatisfactory reasons, the language would also authorize a court to override the social worker's determination and order an assessment if requested by any party or the relative themselves, if doing so is found to be in the best interest of the child. Next, the language includes language that exempts all of these new provisions from cases where parents were not offered reunification services due to the circumstances contemplated by existing provisions.

Last, in addition to revising the structure of the bill, the author has proposed to remove the language currently at (e)(2)(A) requiring a finding of clear and convincing evidence that a placement with a relative is in the child's best interest before ordering the placement following a dispositional hearing. By removing the clear and convincing standard, the new proposal defaults to a finding by a preponderance of the evidence that the placement is in the child's best interest, which seems reasonable considering the underlying goal of the statute is to keep children with relatives. Imposing a higher standard than the default seems counterproductive to achieving this goal.

*Amendment 3.* Finally, the amendments propose to incorporate new subdivision (i) as a final catch-all to restate what the proponents believe to be existing law:

**(i) Nothing in this section prevents the court from ordering placement with a relative subsequent to the hearing conducted pursuant to Section 358 or from giving the social worker the discretion for a placement change into the appropriate home of a relative.**

**ARGUMENTS IN SUPPORT:** This bill is sponsored by the Child Welfare Directors Association (CWDA). It is further supported by the Alliance for Children's Rights. In support of the measure, CWDA submits:

When a child is placed into foster care due to allegations of abuse or neglect by their parents or guardian, federal and state law require that a relative seeking to provide a loving home be

given first consideration for placement above all other settings. Relative preference does not guarantee placement; rather, it ensures that any relative requesting placement is assessed and given preferential consideration based on a number of factors, including the best interest of the child, the wishes of the parent, and the ability of the relative to provide a safe, secure and stable environment. The relative preference aligns with long-standing research that demonstrates better outcomes in such areas as placement stability, academic achievement, and emotional well-being for children placed with relatives. The data also shows that these children are far more likely to remain with their siblings and have more frequent contact with their parents.

California's statute is clear that the relative preference applies in the initial stage of a dependency case or any time a new placement must be made. While the statute does not express a time limit on the relative preference, there is some ambiguity in the law that has led to different interpretations and practices throughout the state. In some situations, the law has been interpreted to preclude the social worker from even having discretion to assess a relative for placement to determine if that placement would be in the best interests of the child(ren). This is inconsistent with the legislative intent of relative preference, and also with recent and ongoing efforts in law and policy to remove barriers and prioritize placement with kin.

AB 1846 resolves these issues and aligns with significant state and county efforts to promote a kin-first culture by clarifying that the relative preference applies until family reunification services have been terminated. AB 1846 further grants the social worker or the court discretion to assess a relative if they request placement after family reunification services have been terminated. This critical legislation recognizes the positive impacts of kinship care and bolsters California's commitment to honor and prioritize keeping families together.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Welfare Directors Association (sponsor)  
Alliance for Children's Rights

##### **Opposition**

None on file

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