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Code: Section:

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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 2. CHILDREN [100 - 1500] (*Division 2 enacted by Stats. 1937, Ch. 369.*)

PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT [100 - 1459] (*Part 1 enacted by Stats. 1937, Ch. 369.*)

CHAPTER 2. Juvenile Court Law [200 - 987] (*Chapter 2 repealed and added by Stats. 1961, Ch. 1616.*)

ARTICLE 8. Dependent Children—Commencement of Proceedings [325 - 342] (*Article 8 added by Stats. 1976, Ch. 1068.*)

[325.](#) A proceeding in the juvenile court to declare a child to be a dependent child of the court is commenced by the filing with the court, by the social worker, of a petition, in conformity with the requirements of this article.

(Amended by Stats. 1998, Ch. 1054, Sec. 10. Effective January 1, 1999.)

[326.5.](#) The Judicial Council shall adopt a rule of court effective July 1, 2001, that complies with the requirement of the federal Child Abuse Prevention and Treatment Act (Public Law 93-247) for the appointment of a guardian ad litem, who may be an attorney or a court-appointed special advocate, for a child in cases in which a petition is filed based upon neglect or abuse of the child or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the child. The rule of court may include guidelines to the courts for determining when an attorney should be appointed rather than a court appointed special advocate, and caseload standards for guardians ad litem.

(Added by Stats. 2000, Ch. 450, Sec. 3. Effective January 1, 2001.)

[326.7.](#) Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the dependency petition, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

(Added by Stats. 2008, Ch. 181, Sec. 3. Effective January 1, 2009.)

[327.](#) Either the juvenile court in the county in which a minor resides or in the county where the minor is found or in the county in which the acts take place or the circumstances exist which are alleged to bring such minor within the provisions of Section 300, is the proper court to commence proceedings under this chapter.

(Added by Stats. 1976, Ch. 1068.)

[328.](#) (a) If the social worker has cause to believe that there was or is within the county, or residing in the county, a person described in Section 300, the social worker shall immediately make any investigation the social worker deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. If the social worker determines that it is appropriate to offer child welfare services to the family, the social worker shall make a referral to these services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. An inference regarding the credibility of the allegations or the need for child welfare services shall not be drawn from the mere existence of a child custody or visitation dispute.

(1) This subdivision does not require an investigation by the social worker with respect to a child delivered or referred to any agency pursuant to Section 307.5.

(2) The social worker shall interview any child four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the child's view of the home environment. If proceedings are commenced, the social worker shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the social worker shall include the substance of the interview in the social study required by Section 358. A referral based on allegations of child abuse from the family court pursuant to Section 3027 of the Family Code shall be investigated to the same extent as any other child abuse allegation.

(b) (1) The State Department of Social Services shall submit a report to the Legislature that includes all of the following data:

(A) The number of children in the care and custody of all county placing agencies pursuant to a voluntary placement agreement, as defined in subdivision (p) of Section 11400.

(B) The number of child welfare agency investigations that resulted in a written plan for care of a child outside the home of the parent that is not a voluntary placement agreement, as described in subparagraph (A).

(C) The number of children identified in subparagraphs (A) and (B) for whom a subsequent report is made by child protective services within one year of initial contact with the county agency, including whether the reports were substantiated, unsubstantiated, or inconclusive.

(D) The number of children identified in subparagraphs (A) and (B) for whom a dependency court petition is filed within one year of the date of the voluntary placement agreement or written plan for care.

(2) The department shall stratify the data required pursuant to paragraph (1) by a variety of demographic characteristics, including, at a minimum, by race and income level to the extent allowable to protect confidentiality.

(3) The report shall be submitted to the Legislature on or before January 1, 2025, or 15 months after the date the department notifies the Legislature that the Child Welfare Services – California Automated Response and Engagement System (CWS-CARES) can perform the necessary automation to implement the new data fields described in paragraph (1). The report shall be submitted to the Legislature in compliance with Section 9795 of the Government Code.

(Amended by Stats. 2022, Ch. 780, Sec. 1. (AB 2309) Effective January 1, 2023.)

328.1. (a) A county child welfare department investigating a case of child abuse or neglect involving an allegation against the parent or guardian of the child shall attempt, as soon as practicable, to determine if the parent or guardian is an active duty member of the Armed Forces of the United States.

(b) A county child welfare department may develop and adopt memoranda of understanding with military installations, located in whole or in part within the borders of its jurisdiction, that govern the investigation of allegations of child abuse or neglect against active duty service members assigned to units on those installations. Those memoranda may include, but are not limited to, all of the following:

(1) To whom, how, and when each party would report information about an investigation.

(2) Each party's role and responsibilities when conducting an investigation and in providing child maltreatment prevention or rehabilitative services to a family in response to the results of the investigations, consistent with state and federal law.

(3) Protocols describing what, if any, confidential information may be shared between the parties and for what purposes, in accordance with applicable state and federal law.

(c) This section does not limit or change the responsibilities of a county child welfare department with respect to investigations of, or responses to, allegations of abuse or neglect.

(Added by Stats. 2020, Ch. 233, Sec. 1. (SB 907) Effective January 1, 2021.)

328.2. The State Department of Social Services shall update all regulations, all-county letters, and other instructions relating to the investigation of a minor who may be described by Section 300 to ensure that, when a social worker is investigating an alleged case of child abuse or neglect, a parent's or guardian's use or possession of cannabis is treated in the same manner as a parent's or guardian's use or possession of alcohol and legally prescribed medication.

(Added by Stats. 2022, Ch. 260, Sec. 1. (AB 2595) Effective January 1, 2023.)

328.3. Whenever any officer refers or delivers a minor pursuant to Section 307.5, the agency to which the minor is referred shall immediately make such investigation as it deems necessary to determine what disposition of the referral or delivery should be made. If the referral agency does not initiate a service program on behalf of a minor referred to the agency within 20 calendar days, or initiate a service program on behalf of a minor delivered to the agency within 10 calendar days, that agency shall immediately notify the referring officer of that decision in writing. The referral agency shall retain a copy of that written notification for 30 days.

(Added by Stats. 1984, Ch. 260, Sec. 2.)

329. (a) When a person applies to the social worker to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a child within the provisions of Section 300, and setting forth facts in support thereof. The social worker shall immediately investigate as necessary to determine whether proceedings

in the juvenile court should be commenced. If the social worker does not take action under Section 301 and does not file a petition in the juvenile court within three weeks after the application, the social worker shall endorse upon the affidavit of the applicant the decision not to proceed further, including any recommendation made to the applicant, if one is made, to consider commencing a probate guardianship proceeding for the child, and the reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered under this section. The social worker shall retain the affidavit and the endorsement thereon for a period of 30 days after notifying the applicant.

(b) (1) If a social worker receives a referral from the probate court pursuant to Section 1513 of the Probate Code, the social worker shall immediately investigate as necessary to determine whether proceedings in the juvenile court should be commenced.

(2) The social worker shall, within three weeks of the referral, report the findings and conclusions of the investigation, along with any decision made as a result and the reasons for the decision, to the probate court as required by subdivision (b) of Section 1513 of the Probate Code.

(Amended by Stats. 2021, Ch. 578, Sec. 4. (AB 260) Effective January 1, 2022.)

331. (a) If a person has applied to the social worker, pursuant to Section 329, to commence juvenile court proceedings and the social worker does not file a petition within three weeks after the application, the person may, within one month after making the application, apply to the juvenile court to review the decision of the social worker, and the court may either affirm the decision of the social worker or, if it finds that the child is, prima facie, described by Section 300, order the social worker to commence juvenile court proceedings.

(b) If the probate court has referred a matter to the child welfare agency pursuant to Section 1513 of the Probate Code, and the agency does not file a petition to commence juvenile court proceedings within three weeks of the referral, the probate court or counsel appointed by the probate court pursuant to Section 1470 of the Probate Code to represent the child may, within one month after the referral, request that the juvenile court review the decision of the social worker not to file a petition. The request shall contain the probate court referral made pursuant to subdivision (b) of Section 1513 of the Probate Code and the social worker's report, if available to the court, and need not contain any additional information. The juvenile court may either affirm the decision of the social worker or, if it finds that the child is, prima facie, described by Section 300, order the social worker to commence juvenile court proceedings.

(1) Either the appointment of a temporary probate guardian or any delay attributable to the child welfare investigation shall not preclude the juvenile court from ordering the social worker to commence dependency proceedings or from hearing and determining a petition alleging that the child is described by Section 300.

(2) The juvenile court shall, within five days of completing its review, transmit its decision, in writing, to the probate court. The probate court shall file the decision in question in the guardianship proceeding and shall make it available only to persons entitled to receive reports pursuant to subdivision (d) of Section 1513 of the Probate Code.

(Amended by Stats. 2021, Ch. 578, Sec. 5. (AB 260) Effective January 1, 2022.)

331.5. When any officer has referred or delivered a child to an agency pursuant to Section 307.5, and that agency does not initiate a service program for the child within the time periods required by Section 328.3, the referring agency may, within 10 court days following receipt of the notification from the referral agency, apply to the social worker for a review of that decision.

(Amended by Stats. 1998, Ch. 1054, Sec. 14. Effective January 1, 1999.)

332. A petition to commence proceedings in the juvenile court to declare a child a dependent child of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and the subdivision under which the proceedings are instituted. If it is alleged that the child is a person described by subdivision (e) of Section 300, the petition shall include an allegation pursuant to that section.

(d) The name, age, and address, if any, of the child upon whose behalf the petition is brought. If it is known or there is reason to know the child is an Indian child, the petition shall also include the last known address of the child.

(e) The names and residence addresses, if known to the petitioner, of all parents, any guardian of the child, and any Indian custodian. If there is no parent, guardian, or Indian custodian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there is none, the adult relative residing nearest to the location of the court. If it is known to the petitioner that one of the parents is a victim of domestic violence and that parent is currently living separately from the batterer-parent, the address of the victim-parent shall remain confidential.

(f) A concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the child upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the child was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the child, of all of the following: (1) Section 903 makes that person, the estate of that person, and the estate of the child, liable for the cost of the care, support, and maintenance of the child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the child, liable for the cost to the county of legal services rendered to the child or the parent by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the child, liable for the cost to the county of the supervision of the child by the social worker pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(Amended by Stats. 2018, Ch. 833, Sec. 24. (AB 3176) Effective January 1, 2019.)

333. Any petition filed in juvenile court to commence proceedings pursuant to this chapter that is not verified may be dismissed without prejudice by such court.

(Added by Stats. 1976, Ch. 1068.)

334. Upon the filing of the petition, the clerk of the juvenile court shall set the same for hearing within 30 days, except that in the case of a minor detained in custody at the time of the filing of the petition, the petition must be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

(Added by Stats. 1976, Ch. 1068.)

338. In addition to the notice provided in Sections 290.1 and 290.2 the juvenile court may issue its citation directing any parent or guardian of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring such minor with him or her. The notice shall in addition state that a parent or guardian may be required to participate in a counseling program with the minor concerning whom the petition has been filed. Personal service of such citation shall be made at least 24 hours before the time stated therein for that appearance.

(Amended by Stats. 2002, Ch. 416, Sec. 7. Effective January 1, 2003.)

339. In case such citation cannot be served, or the person served fails to obey it, or in any case in which it appears to the court that the citation will probably be ineffective, a warrant of arrest may issue on the order of the court either against the parent, or guardian, or the person having the custody of the minor, or with whom the minor is living.

(Added by Stats. 1976, Ch. 1068.)

340. (a) Whenever a petition has been filed in the juvenile court alleging that a minor comes within Section 300 and praying for a hearing on that petition, or whenever any subsequent petition has been filed praying for a hearing in the matter of the minor and it appears to the court that the circumstances of his or her home environment may endanger the health, person, or welfare of the minor, or whenever a dependent minor has run away from his or her court-ordered placement, a protective custody warrant may be issued immediately for the minor.

(b) A protective custody warrant may be issued without filing a petition under Section 300 if the court finds probable cause to support all of the following:

(1) The child is a person described in Section 300.

(2) There is a substantial danger to the safety or to the physical or emotional health of the child.

(3) There are no reasonable means to protect the child's safety or physical health without removal.

(c) Any child taken into protective custody pursuant to this section shall immediately be delivered to the social worker who shall investigate, pursuant to Section 309, the facts and circumstances of the child and the facts surrounding the child being taken into custody and attempt to maintain the child with the child's family through the provision of services.

(d) (1) Nothing in this section is intended to limit any other circumstance that permits a magistrate to issue a warrant for a person.

(2) Nothing in this section is intended to limit a social worker from taking into and maintaining temporary custody of a minor pursuant to paragraph (2) of subdivision (a) of Section 306.

(Amended by Stats. 2017, Ch. 262, Sec. 1. (AB 1401) Effective January 1, 2018.)

340.5. (a) Whenever pursuant to Article 10 (commencing with Section 360) a social worker is assigned to provide child welfare services, family reunification services, or other services to a dependent child of the juvenile court, the juvenile court may, for good cause shown and after an ex parte hearing, issue its order restraining the parents of the dependent child from threatening the social worker, or any member of the social worker's family, with physical harm.

(b) For purposes of this section, "good cause" means at least one threat of physical harm to the social worker, or any member of the social worker's family, made by the person who is to be the subject of the restraining order, with the apparent ability to carry out the threat.

(c) Violation of a restraining order issued pursuant to this section shall be punishable as contempt.

(Added by Stats. 1991, Ch. 980, Sec. 1.)

341. Upon request of the social worker, district attorney, the child, or the child's parent, guardian, or custodian, or on the court's own motion, the court or the clerk of the court, or an attorney, pursuant to Section 1985 of the Code of Civil Procedure, shall issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing regarding a child who is alleged or determined by the court to be a person described by Section 300. When a person attends a juvenile court hearing as a witness upon a subpoena, in its discretion, the court may by an order on its minutes, direct the county auditor to draw his or her warrant upon the county treasurer in favor of the witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. The fees are county charges.

(Amended by Stats. 1998, Ch. 1054, Sec. 17. Effective January 1, 1999.)

342. (a) In any case in which a minor has been found to be a person described by Section 300 and the petitioner alleges new facts or circumstances, other than those under which the original petition was sustained, sufficient to state that the minor is a person described in Section 300, the petitioner shall file a subsequent petition. This section does not apply if the jurisdiction of the juvenile court has been terminated prior to the new allegations.

(b) Unless otherwise provided by law, all procedures and hearings required for an original petition are applicable to a subsequent petition filed under this section.

(Amended by Stats. 2017, Ch. 319, Sec. 129. (AB 976) Effective January 1, 2018.)