



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 "L" Street, Suite 700 • Sacramento, California 95814-3393
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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

September 12, 2005

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 519 (Leno) – Request for Signature

Dear Governor Schwarzenegger:

The Judicial Council is proud to co-sponsor AB 519, which would enhance the discretion of the juvenile courts to protect the best interests of children in dependency proceedings by:

- Creating a procedure to reinstate parental rights for children in very narrow circumstances where an adoption plan appears unlikely to succeed; and
- Authorizing the court to issue ex parte protective orders to protect parents and caregivers even if the child does not require immediate protection.

A procedure to reinstate parental rights in limited cases is needed in order to prevent dependent children from becoming "legal orphans" due to a failed adoption. The need for a statutory solution to this problem was highlighted by the Court of Appeal in its opinion in *In re Jerred H.* (2004) 121 Cal.App. 4th 793. The court noted that its holding that the termination of parental rights under the current statute must be final was likely to leave the child at issue a "legal orphan" and went on to state:

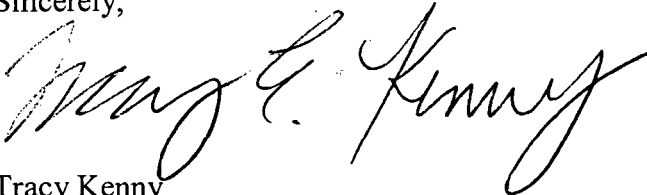
To avoid such an unhappy consequence, legislation may be advisable authorizing judicial intervention under very limited circumstances following the termination of parental rights and prior to the completion of adoption. *In re Jerred H.*, 121 Cal.App. 4th at 799.

AB 519 takes up the Court of Appeal's suggestion, and does so in a manner that appropriately avoids the risk that the parents whose rights have been terminated will seek to utilize this new mechanism to stall adoptions of their children. The proposal requires that three years have passed without an adoption, or that all parties stipulate that the child is no longer adoptable, and restricts the authority to petition for reinstatement to the child. The court then must find that the child is no longer likely to be adopted, and that reinstatement would be in his or her best interest. This limited remedy provides the court with the authority to protect the child's best interest where existing law prevents the court from taking that action even where it is clear to all parties that such action is in the child's best interest. By filling this gap, AB 519 would restore to the juvenile court the discretion it needs to protect the child from becoming a "legal orphan."

Juvenile courts also need the discretion on a regular basis to issue ex parte orders protecting the parents, guardians, and caregivers of the children under its jurisdiction because the needs of those parties for protection have an impact on the children that the court is charged with protecting. Under current law the court has such authority, but only where it is "simultaneously" issuing an order to protect the child. There are situations that arise where the parent or the caregiver requires protection, but the child is not at risk. In such cases the court needs the authority to act in a timely manner to protect the family and further the goal of reunification. Currently the court must direct the party to another court to seek protection, this change will streamline that process and allow the juvenile court jurisdiction over all of the issues relevant to the child and family whose welfare it must oversee.

For these reasons, the Judicial Council requests your signature on AB 519.

Sincerely,

A handwritten signature in cursive script, reading "Tracy E. Kenny".

Tracy Kenny
Legislative Advocate

TK/yt

cc: Miriam Krinsky, Children's Law Center of Los Angeles
Hon. Mark Leno, Member of Assembly
Ms. Karen Pank, Deputy Legislative Secretary, Office of the Governor
Ms. Sue Blake, Assistant Director of Legislation, Office of Planning and Research



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May 18, 2005

Honorable Joseph Dunn, Chair
Senate Judiciary Committee
State Capitol, Room 2080
Sacramento, California 95814

Subject: AB 519 (Leno), as amended March 30, 2005 – Co-Sponsor
Hearing: Senate Judiciary Committee – June 7, 2005

Dear Senator Dunn:

The Judicial Council is proud to co-sponsor AB 519 as proposed to be amended, which would enhance the discretion of the juvenile courts to protect the best interests of children in dependency proceedings by:

- Creating a procedure to reinstate parental rights for children in very narrow circumstances where an adoption plan appears unlikely to succeed; and
- Authorizing the court to issue ex parte protective orders to protect parents and caregivers even if the child does not require immediate protection.

A procedure to reinstate parental rights in limited cases is needed in order to prevent dependent children from becoming “legal orphans” due to a failed adoption. The need for a statutory solution to this problem was highlighted by the Court of Appeal in its opinion in *In re Jerred H.* (2004) 121 Cal.App. 4th 793. The court noted that its holding that the termination of parental rights under the current statute must be final was likely to leave the child at issue a “legal orphan” and went on to state:

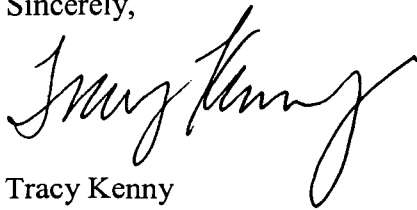
To avoid such an unhappy consequence, legislation may be advisable authorizing judicial intervention under very limited circumstances following the termination of parental rights and prior to the completion of adoption. *In re Jerred H.*, 121 Cal.App. 4th at 799.

AB 519 takes up the Court of Appeal's suggestion, and does so in a manner that appropriately avoids the risk that the parents whose rights have been terminated will seek to utilize this new mechanism to stall adoptions of their children. The proposal requires that three years have passed without an adoption, or that all parties stipulate that the child is no longer adoptable, and restricts the authority to petition for reinstatement to the child. The court then must find that the child is no longer likely to be adopted, and that reinstatement would be in his or her best interest. This limited remedy provides the court with the authority to protect the child's best interest where existing law prevents the court from taking that action even where it is clear to all parties that such action is in the child's best interest. By filling this gap, AB 519 would restore to the juvenile court the discretion it needs to protect the child from becoming a "legal orphan."

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For these reasons the Judicial Council is proud to sponsor AB 519.

Sincerely,



Tracy Kenny
Legislative Advocate

TK/yt

cc: Members, Senate Judiciary Committee
Hon. Mark Leno, Member of the Assembly
Melinda Myers, Counsel, Senate Judiciary Committee
Mike Petersen, Senate Republican Office of Policy
Karen Pank, Deputy Legislative Secretary, Office of the governor
Sue Blake, Assistant Director of Legislation, Office of Planning and Research



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March 23, 2005

Honorable Dave Jones, Chair
Assembly Judiciary Committee
State Capitol, Room 3126
Sacramento, California 95814

Subject: AB 519 (Leno), as introduced – Support with technical amendments
Hearing: Assembly Judiciary Committee – March 29, 2005

Dear Assembly Member Jones:

The Judicial Council is proud to co-sponsor AB 519 as proposed to be amended, which would enhance the discretion of the juvenile courts to protect the best interests of children in dependency proceedings by:

- Creating a procedure to reinstate parental rights for children in very narrow circumstances where an adoption plan appears unlikely to succeed; and
- Authorizing the court to issue ex parte protective orders to protect parents and caregivers even if the child does not require immediate protection.

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AB 519 takes up the Court of Appeal's suggestion, and does so in a manner that appropriately avoids the risk that the parents whose rights have been terminated will seek to utilize this new mechanism to stall adoptions of their children. The proposal requires that three years have passed without an adoption, or that all parties stipulate that the child is no longer adoptable, and restricts the authority to petition for reinstatement to the child. The court then must find that the child is no longer likely to be adopted, and that reinstatement would be in his or her best interest. This limited remedy provides the court with the authority to protect the child's best interest where existing law prevents the court from taking that action even where it is clear to all parties that such action is in the child's best interest. By filling this gap, AB 519 would restore to the juvenile court the discretion it needs to protect the child from becoming a "legal orphan."

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For these reasons the Judicial Council is proud to sponsor AB 519.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Kenny", written in a cursive style.

Tracy Kenny
Legislative Advocate

TK/yt

cc: Members, Assembly Judiciary Committee
Drew Liebert, Chief Counsel
Assembly Judiciary Committee
Mark Redmond, Consultant
Assembly Republican Office of Policy



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March 23, 2005

Honorable Mark Leno
Member of the Assembly
State Capitol, Room 3146
Sacramento, California 95814

Subject: AB 519 (Leno), as introduced – Support with technical amendments

Hearing: Assembly Judiciary Committee – March 29, 2005

Dear Assembly Member Leno:

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