



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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RONALD G. OVERHOLT
Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

May 5, 2005

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

Subject: SB 726 (Florez), as amended May 3, 2005 – Oppose unless amended
Hearing: Senate Judiciary Committee – May 10, 2005

Dear Senator Dunn:

I regret to inform you that the Judicial Council must oppose SB 726 unless it is amended to restore to the juvenile court the discretion it requires to protect the welfare of the children under its jurisdiction. SB 726 would amend existing juvenile dependency statutes to treat the return of a child to the home of a previously non-custodial parent in a manner analogous to the foster care placement of a dependent child with a relative caregiver. It would also require follow-up home visits by social worker's to the homes of such parents, and would require automatic removal of a child where that visit did not occur within a reasonable time, or where the social worker finds that the home is not safe and adequate. In addition, it requires that an interview of any foster parent be conducted by a social worker, and that the court review the report of that interview prior to a child being returned to a parent. Finally it mandates that the court order a parenting class post-reunification for any parent who has had a child six or under removed and placed in foster care. The Judicial Council recommends that SB 726 be amended in the following manner to restore judicial discretion and consistency with existing law.

Remove licensing requirements for noncustodial parents; clarify authority of child welfare to access criminal history information

Welfare and Institutions Code section 202 sets forth the purposes of the juvenile court, and states clearly that the purpose of the court in dependency cases is to "preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare." In order to fulfill this purpose, the court needs the flexibility to return a child to a previously non-custodial parent without subjecting that parent to the requirements placed on other types of caregivers. Where the court determines that a parent is

able to care for a dependent child, it needs the ability to return that child to his or her parent without subjecting that parent to licensing standards and review. Imposing these restrictions will serve to delay a child's return to a parent, which is inconsistent with the statutory purpose of the juvenile court. Welfare and Institutions Code section 16504.5 authorizes the child welfare agency to examine criminal history information for a variety of purposes. It may be necessary to clarify this section to allow the agency to access this information relating to a parent or a cohabitant of a parent prior to child being returned, but such a review should not be mandatory. In addition, the licensing standards and procedures that govern foster care placements with non-parents should not be imposed on parents.

Eliminate "second home visit" procedures

SB 726 requires the court to maintain jurisdiction over any child returned to a parent until a social worker has visited the home of the parent and submitted a report to the court. This requirement is problematic for a number of reasons. This mandate is too restrictive and unnecessarily interferes with the authority of the court to determine when jurisdiction should be terminated. By requiring continuing jurisdiction, SB 726 will significantly increase the workload of the court and the agency, and result in unjustified interference with families who are trying to move beyond their involvement with the child welfare system. The court must have the discretion to determine when such interference is warranted if the system is to remain consistent with the statutory mandates. Under current law the court can order the provision of family maintenance services to the family pursuant to Welfare and Institutions Code section 16506(c) if it believes that continuing jurisdiction is appropriate. If the court elects to maintain jurisdiction and order family maintenance, then it must conduct review proceedings regarding the child no later than six months after the proceeding at which the court ordered that the child be returned to the parent. During that time the child welfare agency is responsible for the provision of services to the family that will allow the child to remain safely at home. This existing procedure is adequate to protect children who are being returned to parents, and provides the court with the flexibility to determine whether the family requires this level of service and oversight.

Another concern with the "second home visit" requirement in SB 726 is that the standard for removal in the legislation is too broad and should be made consistent with the current standard for removal of a child from the home of a parent as set forth in Welfare and Institutions Code section 306. That statute authorizes removal where the child is in immediate danger of physical or sexual abuse, needs immediate medical care, or where the home poses an immediate threat to the child's health or safety. Because SB 726 addresses cases where a child is in the custody of his or her parent, the standard for removal should be consistent with existing provisions for removal from parents.

Incorporate foster parent interview requirements into existing statutory requirements

Current statutes enumerate the information that child welfare agencies must provide in their periodic reports to the court regarding children in foster care, and provide that the court must conduct hearings on these reports at least every six months. Foster caregivers often have critical information regarding a child's welfare, but that information should be incorporated into the existing reporting requirements for social workers contained in Welfare and Institutions Code section 366.1.

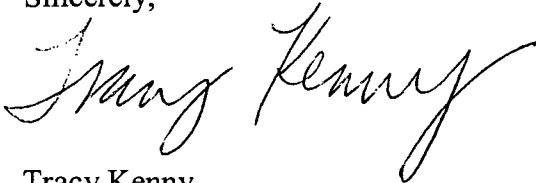
Post-reunification parenting classes should be discretionary

The requirement that all parents of children under the age of six must complete parenting classes after reunification undermines the authority of the court to determine what services are necessary for parents to be prepared to reunify. Most parents are required to complete a parenting class before their child can be returned, thus this new requirement would result in many parents being required to attend two sessions of the same classes. The court should not be required to make orders that it does not deem necessary or beneficial, and that may in fact interfere with the best interests of the child, by taking the parent out of the home for additional time to attend the classes. As a result, this provision needs to be amended to make it discretionary rather than mandatory.

Juvenile courts are charged with protecting the welfare of the children under their jurisdiction, and all parties involved in the child welfare system must review their policies and practices when the system fails to adequately protect a child and tragic consequences result. Such reviews should not, however, result in the undoing of the core principles of the system, but rather should focus on bolstering and enhancing existing mechanisms for child protection within the current framework.

For these reasons the Judicial Council is opposed to SB 726 unless it is amended as described above.

Sincerely,



Tracy Kenny
Legislative Advocate

TK/yt

cc: Members, Senate Judiciary Committee
Hon. Dean Florez,
Member of the Senate
Melinda Myers, Counsel
Senate Judiciary Committee
Mike Petersen, Consultant
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 Dean Florez
Member of the Senate
State Capitol, Room 5061
Sacramento, California 95814

Subject: SB 726 (Florez), as introduced – Oppose unless amended
Hearing: Senate Human Services Committee – April 12, 2005

Dear Senator Florez:

I regret to inform you that the Judicial Council must oppose SB 726 unless it is amended to restore to the juvenile court the discretion it requires to protect the welfare of the children under its jurisdiction. SB 726 would amend existing juvenile dependency statutes to treat the return of a child to the home of a previously non-custodial parent in a manner analogous to the foster care placement of a dependent child with a relative caregiver. It would also require follow-up home visits by social worker's to the homes of such parents, and would require automatic removal of a child where that visit did not occur within a reasonable time, or where the social worker finds that the home is not clean and safe. In addition, it requires that an interview of any foster parent be conducted by a social worker, and that the court review the report of that interview prior to a child being returned to a parent. Finally it mandates that the court order a parenting class post-reunification for any parent who has had a child six or under removed and placed in foster care. The Judicial Council recommends that SB 726 be amended in the following manner to restore judicial discretion and consistency with existing law.

Remove licensing requirements for noncustodial parents; clarify authority of child welfare to access criminal history information

Welfare and Institutions Code section 202 sets forth the purposes of the juvenile court, and states clearly that the purpose of the court in dependency cases is to "preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare." In order to fulfill this purpose, the court needs the flexibility to return a child to a previously non-custodial parent without subjecting that parent to the requirements placed on other types of caregivers. Where the court determines that a parent is

able to care for a dependent child, it needs the ability to return that child to his or her parent without subjecting that parent to licensing standards and review. Imposing these restrictions will serve to delay a child's return to a parent, which is inconsistent with the statutory purpose of the juvenile court. Welfare and Institutions Code section 16504.5 authorizes the child welfare agency to examine criminal history information for a variety of purposes. It may be necessary to clarify this section to allow the agency to access this information relating to a parent or a cohabitant of a parent prior to child being returned, but such a review should not be mandatory.

Eliminate "second home visit" procedures

SB 726 requires a social worker to visit the home of a non-custodial parent whose child has been returned and to remove the child if the home does not appear clean and safe. This requirement is problematic for a number of reasons. First, the juvenile court has the discretion to determine whether it requires continuing jurisdiction over a child who is returned to a non-custodial parent. If the court determines that such jurisdiction is appropriate, it can order the provision of family maintenance services to the family pursuant to Welfare and Institutions Code section 16506(c). If the court elects to maintain jurisdiction and order family maintenance, then it must conduct review proceedings regarding the child no later than six months after the proceeding at which the court ordered that the child be returned to the parent. During that time the child welfare agency is responsible for the provision of services to the family that will allow the child to remain safely at home. This procedure is adequate to protect children who are being returned to previously non-custodial parents, and provides the court with the flexibility to determine whether the family requires this level of service and oversight. In addition, the standard for removal in the legislation is too broad and should be made consistent with the current standard for removal of a child from the home of a parent as set forth in Welfare and Institutions Code section 306, which authorizes removal where the child is in immediate danger of physical or sexual abuse, needs immediate medical care, or where the home poses an immediate threat to the child's health or safety.

Incorporate foster parent interview requirements into existing statutory requirements

Current statutes enumerate the information that child welfare agencies must provide in their periodic reports to the court regarding children in foster care, and provide that the court must conduct hearings on these reports at least every six months. Foster caregivers often have critical information regarding a child's welfare, but that information should be incorporated into the existing reporting requirements for social workers contained in Welfare and Institutions Code section 366.1.

Post-reunification parenting classes should be discretionary

The requirement that all parents of children under the age of six must complete parenting classes after reunification undermines the authority of the court to determine what services are necessary for parents to be prepared to reunify. Most parents are required to complete a parenting class before their child can be returned, thus this new requirement would result in many parents being required to attend two sessions of the same classes. The court should not be required to make orders that it does not deem necessary or beneficial, and that may in fact interfere with the best interests of the child, by taking the parent out of the home for additional time to attend the

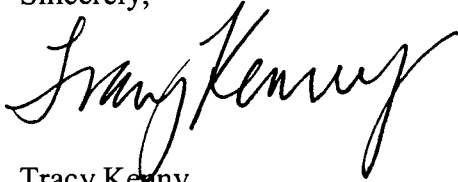
Hon. Dean Florez
March 23, 2005
Page 3

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Juvenile courts are charged with protecting the welfare of the children under their jurisdiction, and all parties involved in the child welfare system must review their policies and practices when the system fails to adequately protect a child and tragic consequences result. Such reviews should not, however, result in the undoing of the core principles of the system, but rather should focus on bolstering and enhancing existing mechanisms for child protection within the current framework.

For these reasons the Judicial Council is opposed to SB 726 unless it is amended as described above.

Sincerely,

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

Tracy Kenny
Legislative Advocate

TK/yt

cc: Karen Pank, Deputy Legislative Secretary
Office of the Governor
Office of Planning and Research



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March 23, 2005

Honorable Joe Simitian, Chair
Senate Human Services Committee
State Capitol, Room 4062
Sacramento, California 95814

Subject: SB 726 (Florez), as introduced – Oppose unless amended
Hearing: Senate Human Services Committee – April 12, 2005

Dear Senator Simitian:

I regret to inform you that the Judicial Council must oppose SB 726 unless it is amended to restore to the juvenile court the discretion it requires to protect the welfare of the children under its jurisdiction. SB 726 would amend existing juvenile dependency statutes to treat the return of a child to the home of a previously non-custodial parent in a manner analogous to the foster care placement of a dependent child with a relative caregiver. It would also require follow-up home visits by social worker's to the homes of such parents, and would require automatic removal of a child where that visit did not occur within a reasonable time, or where the social worker finds that the home is not clean and safe. In addition, it requires that an interview of any foster parent be conducted by a social worker, and that the court review the report of that interview prior to a child being returned to a parent. Finally it mandates that the court order a parenting class post-reunification for any parent who has had a child six or under removed and placed in foster care. The Judicial Council recommends that SB 726 be amended in the following manner to restore judicial discretion and consistency with existing law.

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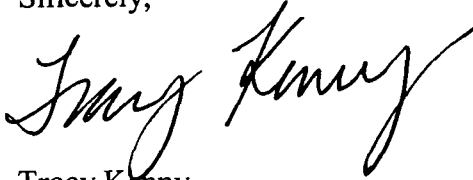
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Tracy Kenny
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cc: Members, Senate Human Services Committee
Jack Hailey, Consultant
Senate Human Services Committee
Teresa Smanio, Consultant
Senate Republican Office of Policy