

Reunifying Immigrant Families Act Placement with Undocumented Relatives

California's Reuniting Immigrant Families Act ("SB 1064" or "the Act"), enacted September 30, 2012, is the nation's first law addressing the reunification barriers faced by many immigrant families in the child welfare system. This fact sheet provides information on the provisions of SB 1064 addressing placement of children with undocumented relatives, as well as how child welfare agencies and courts must treat those individuals.

Placement of Children

The Act is clear that the immigration status alone of a parent or relative cannot be a barrier to placement of the child with that person, including:

- Release of the child to a parent, guardian, or responsible adult after the state takes temporary custody;¹
- Placement or custody with a non-custodial parent for a child removed in a dependency case;² and
- Placement in the care of a responsible relative for a child removed from the custody of his or her parents in a dependency case.³
- Additionally, a child removed from the custody of his or her parents may be placed with a relative outside the United States if the court finds, upon clear and convincing evidence, that placement to be in the best interest of the child.⁴

Working with Undocumented Relatives in Dependency Cases

SB 1064 recognizes the great value to dependent children of maintaining children's ties to their relatives, and includes provisions to facilitate the involvement of immigrant relatives.

- A relative's request for the child to be placed with him or her is still due preferential consideration by the child welfare agency, regardless of the relative's immigration status.
- The child welfare agency may use the relative's foreign passport or consulate ID card as a valid form of identification to initiate the criminal records check and fingerprint clearance check required for placement determinations.⁵

¹ Cal. Welf. & Inst. §§ 309(a).

² Cal. Welf. & Inst. § 361.2(e)(1).

³ Cal. Welf. & Inst. § 361.2(e)(2).

⁴ Cal. Welf. & Inst. § 361.2(f). This statutory amendment was added by AB 2209, Section 1, enacted July 17, 2012.

⁵ Cal. Welf. & Inst. §§ 309(d)(1), 361.4(b)(2).



- The child welfare agency must give a relative caregiver information about the permanency options of guardianship and adoption, regardless of the caregiver’s immigration status. The information must be provided before legal guardianship is established or adoption is pursued, and must include the long-term benefits and consequences of each action.⁶

Other Custody Contexts

The Act’s prohibition against making caretaking determinations based solely on immigration status extends to state Family and Probate Courts.

- In private custody cases, a person’s immigration status does not disqualify a person from receiving custody if the custody arrangement is otherwise in the child’s best interest.⁷
- A relative may be considered for guardianship of a child in probate court regardless of the relative’s immigration status.⁸



⁶ Cal. Welf. & Inst. §§ 361.5(g)(2)(B), 366.25(b)(2)(B).

⁷ Cal. Fam. § 3040(b).

⁸ Cal. Prob. § 1510(a).