



Understanding Family  
Finding, Relative  
Assessment and Approval

# Today's Speakers

- Ana Beltran, Generations United
- Sue Abrams, Children's Law Center
- Angie Schwartz, Alliance for Children's Rights
- Martha Matthews, Public Counsel

# Logistics

- Webinar will be recorded and archived at [www.stepupforkin.org/trainings](http://www.stepupforkin.org/trainings)
- All attendees will be on mute – type any questions you have into the chat box or if you experience technical difficulties email Adina Kuncz at [a.kuncz@kids-alliance.org](mailto:a.kuncz@kids-alliance.org)
- A certificate of participation will be posted online after the webinar at [www.stepupforkin.org/trainings](http://www.stepupforkin.org/trainings)
- We will be answering your questions – please submit questions using the “questions” function on your GotoWebinar dashboard

# BACKGROUND -- MODEL FAMILY FOSTER HOME LICENSING STANDARDS PROJECT

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Ana Beltran

Generations United

# Origins of Project

- Project started in 2011 with the Annie E. Casey Foundation bringing together nonprofits, universities and others to look at family foster home licensing.
- We began knowing that many children in foster care are in the unlicensed care of their relatives. These children and their relative caregivers are part of the child welfare system and, as such, are subject to rules and restrictions, but they have limited or no support.
- With a license (“approval” or “certification” in some states):
  - monthly financial assistance
  - support services
  - access to the federal Guardianship Assistance Program (GAP) in 32 states, DC and 6 tribes
  - court and caseworker oversight

# State Licensing Standards

- Anecdotally, we collectively knew that one of the biggest barriers to not being licensed was due to state licensing standards.
- Also knew these standards didn't always lead to safe and appropriate placements in the best interests of the children.



# Federal Licensing Requirements

Federal law says little about the actual licensing of foster homes:

- States must designate a state authority responsible for standards.
- States have broad flexibility so long as those standards “are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights...”
- “a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care.” 42 U.S.C. § 671(a)(10).
- States must periodically review their licensing standards. 42 U.S.C. § 671 (a)(11).

# Federal Licensing Requirements cont'd

- The federal Adam Walsh Act also requires states to conduct criminal background and child abuse registry checks. 42 U.S.C. § 671(a)(20)(A).
- Finally, Federal law prohibits a two-tiered system of licensing, one for relatives and another for non-relatives. Final rule to the Adoption and Safe Families Act (ASFA).



# RESEARCH -- ALL 50 STATES AND DC

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Licensing Standards

# Research

- Generations United and the ABA Center on Children and the Law conducted 50 state and DC survey of family foster home licensing standards
- Purpose: identify trends, problematic standards, and barriers specific to relatives
- Paper summarizing findings: Improving Foster Care Licensing Standards around the United States: Using Research Findings to Effect Change
- Paper and research available at [www.grandfamilies.org](http://www.grandfamilies.org)

# Research Findings

- **Problematic standards** like requiring that applicants be no older than 65.
- **Varying standards** among the states for the same type of requirements that should not vary significantly from jurisdiction to jurisdiction.
- **Model language** that was used to develop our model standards.

# Problematic Standards

- Upper age limits
- Requirements to have high school diplomas and/or speak English
- Requirements to own a vehicle
- Income requirements with limitations on home businesses
- Potential discrimination on the basis of disability
- Bias against rural families

# Varying Standards

Standards concerning requirements that should not vary from jurisdiction to jurisdiction like capacity, child abuse and neglect, and criminal background checks and raise questions:

- how are standards determined?
- what are the best standards?



# MODEL FAMILY FOSTER HOME LICENSING STANDARDS

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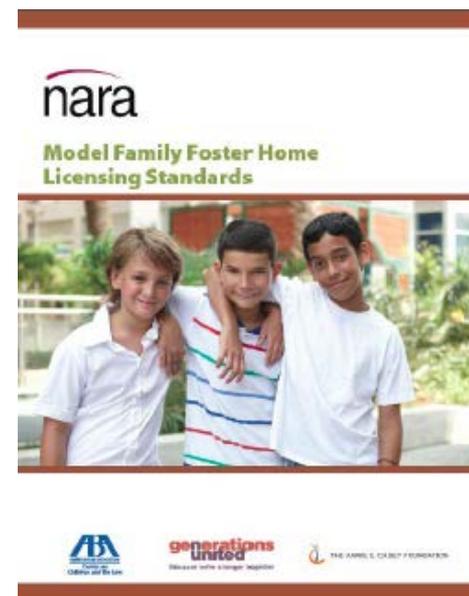
# Model Standards

- Partnership with the National Association for Regulatory Administration (NARA)
- Use model language from states
- Include language from accreditation agencies like Child Welfare League of America and the Council on Accreditation
- Cover family foster home licensing
- Do not cover:
  - licensing processes or procedures
  - care of children after placement in a licensed home
  - other post-licensing requirements like foster parent recordkeeping and reporting

# Package of Materials

The package of materials, available free of charge at [www.grandfamilies.org](http://www.grandfamilies.org) and [www.naralicensing.org](http://www.naralicensing.org) includes:

- a purpose statement
- ten guiding principles
- the model standards
- an interpretive guide that summarizes the purpose of each standard and provides instructions for compliance determinations
- a crosswalk tool designed to assist states and counties in comparing and aligning their current standards with the Model



# Purpose Statement - Summary

- To fulfill the public policy intent behind licensing standards, which is to ensure that children in foster care have safe and appropriate placements.
- To fill the previous void in “national standards” by creating clear, practical, common standards that work to ensure that children, regardless of the state in which they live, will be placed in homes that have met the same safety standards.
- To facilitate the licensing of additional relative and non-relative homes by recognizing and respecting related and non-related foster parents as caregivers who are performing an invaluable service.
- To reflect community standards and be flexible so child of home care are placed in the best homes for them.

# Categories Covered by Model Standards

- Definitions
- Basic Eligibility
- Physical and Mental
- Home Study
- Capacity
- Sleeping
- Other living space
- Fire safety/evacuation
- Additional health & Safety
- Criminal history records check
- Abuse and neglect records check
- Assurances
- Pre-license training
- Emergency placement

# For example – “Eligibility”

- All the model standards are pulled from state examples with an eye towards not excluding applicants based on socioeconomic or cultural biases –
- Consider “Eligibility”:
  - Require functional literacy
  - Ability to communicate with child in his/her language
  - Ability to communicate with service providers and agency (can occur through translators)
  - “income or resources to make timely payments for shelter, food, utility costs, clothing, and other household expenses prior to the addition of a child in foster care”

# Another example – Criminal Background Checks

- Follow Adam Walsh
- For other crimes, we used language from Illinois:
  - E. If an applicant was convicted for a crime other than those included in B. and
    - C., the applicant will not be automatically rejected as a foster parent. The agency must consider the following:
      1. the type of crime;
      2. the number of crimes;
      3. the nature of the offenses;
      4. the age of the individual at the time of conviction;
      5. the length of time that has elapsed since the last conviction;
      6. the relationship of the crime and the capacity to care for children;
      7. evidence of rehabilitation; and
      8. opinions of community members concerning the individual in question.

# Interpretative Guide

- This tool gives licensors guidelines to implement the standards
- The guide is organized as follows:
  - The complete standard
  - The ‘intent’ statement or purpose of the standard
  - The guidelines, which include the assessment methods for evaluating compliance with the standards



# Crosswalk Tool

## Model Family Foster Home Licensing Standards Cross-Walk Tool

Model Licensing Standards Title and Rule Number	Model Licensing Standards Rule Content	Comparable State Standard	State Standard Source - Indicate the citation for all (statutes, regulations/ administrative codes, policies, etc.)	Alignment with Model Licensing Standards	Identify changes needed to align	Plan to address Alignment – Legislative, Policy or Procedure	Comments
1. Definitions A.	"Applicant" – an individual(s) who has submitted an application and is seeking a license from the licensing agency as a family foster home.			<input type="checkbox"/> Yes <input type="checkbox"/> No			
B.	"Community standards" – local norms bounding acceptable conduct. For housing, the term means acceptable building standards based on the neighborhood			<input type="checkbox"/> Yes <input type="checkbox"/> No			

# IMPLEMENTATION UPDATE – MODEL STANDARDS

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# South Carolina Act 187

This legislation implementing our Model capacity standard was signed into law on May 31, 2016:

(A) A foster home may not provide full-time care for more than five foster children, with the total number of children residing in the household not to exceed eight, including the foster parent's own children, children of other household members, and other children residing in the household, except:

- (1) to keep a sibling group together;
- (2) to keep a child in the child's home community;
- (3) to return a child to a home in which the child was previously placed;
- (4) to comply with an order of the court; or
- (5) if it is in the best interest of the children as determined by the court.

(B) No more than two of the five foster children referenced in subsection (A) may be classified as therapeutic foster care placements unless one of the exceptions in subsection (A) applies. If one of the exceptions applies, no more than three of the five foster children may be classified as therapeutic foster care placements."

# Improve Support for Kinship Caregivers Act of 2016

HR 5354, pending in the U.S. Congress, specifically calls for states to compare and align their standards to the NARA Model Standards. Here's part of that legislation:

(1) INITIAL REPORT.—Not later than 1 year after the date of the enactment of this Act, a State with a plan approved under part E of title IV of the Social Security Act shall submit to the Secretary of Health and Human Services a report—

(A) comparing the State standards for foster family homes with the National Association for Regulatory Administration Model Family Foster Home Licensing Standards;

(B) explaining any barriers to the ability of a relative caregiver to become a State-licensed foster parent, and assessing the role of the State's standards for foster family homes in contributing to these barriers (not including barriers caused by the State's adherence to the Adam Walsh Child Protection and Safety Act of 2006); and

(C) describing plans by the State to eliminate the barriers described in subparagraph (B), including plans to change any State standards that contribute to the barriers, and explaining the State's reasoning for not changing any such standards.

# Next Steps

We encourage you to use the crosswalk tool and compare and align your standards with the Model. I'm available to provide free technical assistance and help you with the crosswalk tool

Ana Beltran, JD, Special Advisor, Generations United at [abeltran@gu.org](mailto:abeltran@gu.org)



# OVERVIEW OF CALIFORNIA RELATIVE PREFERENCE, ASSESSMENT AND APPROVAL

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Sue Abrams

Children's Law Center

# Relative Placement Preference

Federal Law (Adoption and Safe Family Act “ASFA”) and state law prioritize placement with relatives when a child must be removed from parents because of abuse or neglect.



# California's Legislative Intent Language

- It is the intent of the Legislature to preserve and strengthen a child's family ties whenever possible...If a child is removed from the physical custody of his or her parents, preferential consideration shall be given whenever possible to the placement of the child with the relative. **Welfare & Institutions Code ("WIC") § 16000 (a)**
- Placement shall, if possible, be made in the home of a relative, unless the placement would not be in the best interest of the child. **Family Code §7950(a)**
- Legislative intent for children to be placed **immediately** with a responsible relative. **WIC § 361.3(b)**
- If a probation officer determines to recommend to the court that a minor...should be removed from the physical custody of his parent or guardian, the probation officer shall give primary consideration to recommending to the court that the minor be placed with a relative of the minor, if such placement is in the best interests of the minor and will be conducive to reunification of the family. **WIC § 281.5**

# Who is Considered a Relative?

- Most common - **an adult related to the child by blood, adoption, or affinity within the fifth degree of kinship**, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. **WIC § 361.3**
- For preferential consideration, a relative is defined as a grandparent, aunt, uncle, or sibling of the child. **WIC § 361.3**
  - “Preferential Consideration” is a specific legal term, meaning the home shall be the first placement to be considered and investigated.
- For purposes of Kin-GAP, a relative includes “fictive kin.” **WIC § 11391(c)**

# Who is Considered a Non-Relative Extended Family Member (“NREFM”)?

- A “**nonrelative extended family member**” (NREFM) is defined as an adult caregiver who:
  - Has an established familial relationship with a relative of the child, or
  - A familial or mentoring relationship with the child
- This may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends. **WIC § 362.7**



# Pre-Detention: Duty to Investigate & Place

- If a child is taken into temporary custody, the social worker shall immediately release the child to the custody of the child's parent, guardian, **or responsible relative**. **WIC § 309(a)**
- If an able and willing relative or non relative extended family member (**WIC § 362.7**), is available and requests temporary placement, the social worker **shall initiate an assessment of the relative's suitability, which shall include:**
  1. In-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs,
  2. Results of a criminal records check conducted pursuant to subdivision (a) of Section 16504.5 (CLETS), and
  3. Check of allegations of prior child abuse or neglect

# Pre-Detention: Common Misconceptions

- **MYTH: Livescan results are required before a child can be detained with a relative.**
  - Preliminary background check only requires a clean CLETS & CACI and a home assessment. WIC § 309(d)(1)
  - Live Scan follow up must occur within 10 days of CLETS. WIC § 361.3(b)(2).
- **MYTH: The social worker can't release children to relatives until after the judge agrees at the first court hearing.**
  - The social worker has the authority and obligation to release a child to relatives before any court hearing has taken place pursuant to WIC § 309.



# Pre-Detention: Common Misconceptions

- **MYTH: The child can't be placed with a relative because multiple relatives have come forward and they all need to be assessed.**
  - The social worker does have an obligation to assess all appropriate relatives requesting preferential consideration.
  - However, the law specifically states this does not limit the social worker's ability to place a child in the home of an appropriate relative or a nonrelative extended family member pending the consideration of other relatives. **WIC § 361.3**



# Detention Hearing (WIC §319)

## Social Worker duties for the initial hearing:

- The court report must include information about whether there are any relatives able and willing to take temporary physical custody of the child.

## Court duties for the initial hearing:

- The court shall consider the results of the assessment done pursuant to WIC §309 (CACI/CLETS/home assessment) prior to ordering the child be placed with a relative.
- The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.

# Practice Tips for Advocates

- Interview the child about any and all relative placements!
- Talk to the relatives to ensure the process moves as smoothly and quickly as possible. Some considerations:
  - Criminal convictions
  - Space issues
  - WIC 361.3 factors
- If WIC § 309 requirements not met, ask for a “**no reasonable efforts**” finding.
- Ask the Court to set a quick progress report to get an update on the status of the assessment(s).



# Detention to Disposition

- Child may be placed during this period with a **WIC 309 preliminary assessment**.
- The social worker must begin other required evaluations & assessments:
  - Live Scan follow up must occur within 10 days of CLETS. **WIC § 361.3(b)(2)**
  - Home assessment for purposes of AFDC-FC eligibility must be initiated immediately (**WIC § 309**) and completed within 30 days per Title 22 regulations.
  - Following the initial hearing, the social worker must initiate a WIC 361.3 assessment of any relative to be considered for continuing placement.  
**WIC § 319**

# Detention to Disposition: Family Finding Requirements

- The social worker must conduct an investigation to identify and locate all relatives of the child within 30 days of removal from the home of the parent(s).
- Unless it's unsafe or inappropriate, the social worker must provide all adult relatives:
  1. Notice the child was removed from his/her parents,
  2. An explanation about ways the relative can participate, and
  3. A copy of the relative information form.
- The social worker must use due diligence to locate relatives, including interviewing the child and parents.



# Disposition

- Report must address appropriateness of any relative.  
**WIC § 358.1**
- Relatives given **preferential consideration**. **WIC § 361.3**
- Social worker and court must consider factors in WIC § 361.3 for all relatives:
  1. Best interests of the child
  2. Wishes of the child, parents & relative
  3. Placement of siblings in the same home. **WIC § 16002**
  4. The ability of the relative to provide a safe, stable and secure home; to facilitate reunification with parents; and to provide legal permanence if reunification fails.

# Disposition (ctnd)

- In addition, home approval is required for placement. **WIC § 361.4**
  - CAVEAT: Some argue these are required for approval for purposes of AFDC-FC funding eligibility, but the court still has authority to place with an appropriate relative. See, e.g., Cesar V. Superior Court (2001) 91 Cal.App.4th 1023; In re Miguel E. (2004) 120 Cal.App.4th 521.
  - CAVEAT TO THE CAVEAT: Several cases have held that at or after disposition the court has **no discretion** to place a child in a home if an adult who lives in the home or has significant contact with the child has a criminal conviction, unless the county has granted an exemption. See, e.g., In re Esperanza C. (2008), 165 Cal.App.4th 1042.

# When Relative Preference Applies

- Relative preference applies if child is being moved.
- Law is unsettled about whether the relative preference applies if a child is not being moved:
  - Some appellate courts have found preference applies only until dispositions (e.g. *In re Lauren R.* (2007) 148 Cal.App.4th 84).
  - More recent case law has held that relative placement preference applies throughout the reunification process (*In re Joseph T.* (2008) 163 Cal.App.4th 787) and possibly beyond the reunification process (*Isabella G.* (2016) 246 Cal.App.4th 708).



# FACTS: Isabella G. (2016) 246

## Cal.App.4th 708

- San Diego case.
- Grandparents **repeatedly requested placement** starting prior to the detention hearing.
- The agency told the grandparents they would assess their home on several occasions but didn't **without explanation**.
- The agency did not conduct any relative assessment until the grandparents hired an attorney & **filed a WIC § 388** petition requesting placement of Isabella. This was almost **2 years** after the initial hearing.
- The placement was approved **within 3 weeks**. Reunification services had already been terminated.

# FACTS: Isabella G. (ctnd)

- At the hearing on the grandparent's WIC § 388 petition, the juvenile court held that the **relative placement preference did not apply** because reunification services had been terminated.
- Instead, the court applied the **caregiver adoption preference** under WIC § 366.26 (k).
- The court said notwithstanding the applicability of the caregiver adoption preference, its ruling was based on **Isabella's best interest**. She had bonded with her current caretaker .
- Further, even though she had a strong bond with her grandparents, and they would provide a safe and loving home, the **grandparents did not meet their burden under WIC § 388** to show a change of placement was required.

# HOLDING: Isabella G.

- First, the caregiver adoption preference should not have applied because parental rights were not terminated yet (county conceded this point).
- Second, the court erred when it determined section 361.3 did not apply because reunification services had been terminated.
- Third, the court further erred when it imposed a burden on grandparents under section 388 to show that a new placement was necessary and that the change of placement was in the child's best interest.
  - Section 361.3 requires the court to give preferential consideration to a request by the child's relative for placement, including an assessment of whether placement with a relative is in the child's best interest.
  - Thus, the relative requesting placement is entitled to a hearing under section 361.3 without having to file a section 388 petition

# HOLDING (ctnd): Isabella G.

- The court also held the **error was not harmless**.
- Focusing on the **history and quality of Isabella's relationship with her grandparents** instead of on the quality of Isabella's relationship with her caregiver may lead to a different outcome on remand.
- The matter was remanded for a hearing on the grandparents' request for placement under WIC § 361.3.

# Permanency/Post-Permanency: Family Finding

- When a child has not achieved legal permanency, at the permanency hearing where family reunification is being terminated or at any post-permanency hearings, the court must find:
  1. The county agency made diligent efforts to locate an appropriate relative, and
  2. The county agency has evaluated each relative as an appropriate placement resource. Family Code § 7950(a)(1).

# LA County as a Model?

- 35% of CA children in out of home care with kin
- 43% of LA children in out of home care with kin
  - Better but still room for improvement!
- LA Policies:
  - [http://policy.dcfs.lacounty.gov/Content/Evaluating\\_a\\_Prospective.htm](http://policy.dcfs.lacounty.gov/Content/Evaluating_a_Prospective.htm)
  - [http://policy.dcfs.lacounty.gov/content/Placement\\_with\\_Relative.htm](http://policy.dcfs.lacounty.gov/content/Placement_with_Relative.htm)

**“Locating relatives as a placement resource is a process that does not cease until a permanent plan is made for the child.”**

# WHAT'S CHANGING: RESOURCE FAMILY APPROVAL

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Angie Schwartz

Alliance for Children's Rights

# Resource Family Approval (RFA)

## Legislative Intent\*

Welfare and Institutions Code Section 16519.5:

“DSS, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement a unified, family-friendly, child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive families.”

\* Authorized under AB 340 (2007), reauthorized under SB 1013 (2013) and modified under AB 403 (2015)

# Foster Families → Resource Families

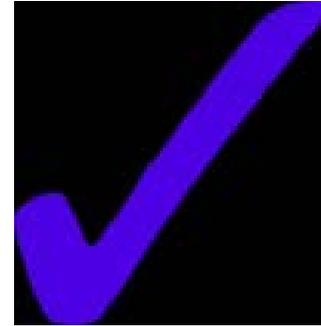
## Resource Family Approval:

- Related and non-related families
- Training for all families
- Resource Families still choose the role they play in the system: temporary or permanent
- Prepared for permanency-no additional approvals necessary

# Core Elements of RFA

## One Approval Standard:

- One Application
- One criminal background check
- Combined home environmental and permanency assessment
- Pre- and post-approval training for all families
- Procedures for expedited placements—emergency placement & compelling reason
- Learn more at: <http://www.childsworld.ca.gov/PG3416.htm>



# What's changing for Relatives?

Under RFA, relatives:

1. Complete both pre-approval and post-approval training, Health screening & TB Test
2. First Aid and CPR certification
3. Psychosocial assessment – Includes 3 face-to-face interviews
4. Three personal references
5. DMV report

# RFA Standards – **what's changed:**

7. 90-days to complete the approval process when placement prior to approval occurs
8. Enhanced due process for denials
9. Complaints investigated by county staff but with additional oversight by DSS.
10. Be approved to take all children, if a relative is willing, not just their relative children.

# What RFA Doesn't Change?

Aspects of the Approval process that do NOT change include:

1. Preferential placement with relatives
2. Ability to place with relatives prior to approval
3. Home Inspection with ability to waive certain non-safety requirements (aka “Environment Assessment”)
4. Criminal background check with exemption process

# Issue for Consideration

- Any relative could initiate an RFA application and start the process to be approved – the key issue is HOW and WHEN the relative is assessed for placement of that child pending the approval
- The approval process must be kin-friendly to ensure that families are supported throughout the process
  - Emergency stipend at time of placement
  - Use of other funds that are available pending approval (expedited CalWORKs or Emergency Assistance)
  - 12 hours of pre-approval training (additional training hours can be required post-approval)
  - Online portal so everyone can track progress

# POTENTIAL LEGISLATIVE REFORMS, AND BEST PRACTICE RECOMMENDATIONS

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Martha Matthews

Public Counsel

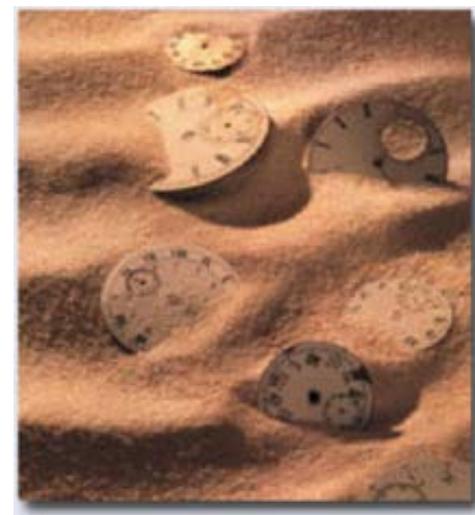
# Proposed 2016 legislation: SB 942 – Timely Placement of Children with Relatives

- Would require immediate assessment if relative requests placement, and child is not placed with a relative at time of initial hearing.
- Would require counties help relatives locate and obtain documents for criminal history exemption process.
- Would require counties to process exemptions within 30 days, and allow court to set hearing if exemption is delayed or denied.



# Issues addressed by SB 942

- If child is not immediately placed with a relative at time of detention, it gets harder for relatives to be considered -- timing is critical; non-relative foster placement tends become a 'done deal' early in the case.
- Relatives often face long delays in criminal history exemption process, and difficulty obtaining documents (police and court records, proof of completion of probation or parole, etc.) especially if crime was many years ago or in another state.
  - Exemptions often delayed for many months or denied entirely, for reasons unrelated to child safety.
  - Disproportionate impact on low-income and minority families, who are more likely to have a household member with criminal history.



# Best Practices for Timely Placement with Relatives

Without additional statutory changes, county child welfare agencies, courts, and children's advocates can still ...

- Fully implement existing laws requiring family-finding at time of initial hearing (WIC 309(e))
- Enforce existing law allowing immediate, pre-approval placement with a relative. (WIC 309(d), 319(f))
- Assist criminal history exemption applicants with documentation and other requirements, and streamline exemption approval process to avoid long delays.
- Request court hearings to resolve disputes and delays regarding relative assessment and approval.

Many counties face a critical shortage of foster placements – these practices not only benefit caregivers, but also benefit children by ensuring that kinship placements are not delayed or denied for reasons unrelated to child safety, and benefit county agencies by maximizing placement resources.

# Proposed 2016 legislation: SB 1336 - Improving Relative Identification for Foster Children

- Would require court to make findings on county social worker's 'due diligence' in identifying, locating, and notifying relatives when a child is removed from parents' home.
- Lists factors in 'due diligence' inquiry:
  - Asking the child
  - Reviewing the case file
  - Obtaining contact information, and telephoning, e-mailing, or visiting relatives
  - Asking relatives for names and locations of other relatives
  - Using internet search tools.
- If a relative requests placement later in case, would require county agency to determine if in child's best interest to assess relative for placement, and require court review if agency decides not to assess relative.
- Would allow relatives to petition court to order county agency to assess them for placement.



# Issues addressed by SB 1336

- Requirement of thorough search for relatives at beginning of case (WIC 309(e)) is not consistently enforced – detention is often a time of crisis, and child welfare agency may focus on immediate needs of child and parents, not prioritize family-finding and support of potential relative caregivers.
- Relatives often request placement later in case (e.g. because of lack of notice, delays in assessment and approval process, or changed circumstances). Creates dilemma:
  - Child may already be attached to current foster parents, school, neighborhood, etc.
  - But ... it may be in child's long-term best interests to move to kinship placement, e.g. for better chance of permanency, contact with siblings and extended family, etc.

Case-by-case inquiry is critical .... but county agencies are often reluctant to assess relative if there is no immediate need for placement change.



# Best Practices for Relative Identification

Without additional statutory changes, county child welfare agencies, courts, and children's advocates can still ...

- Fully implement the family finding requirements of WIC 309(e).
- Set court hearings to address questions of compliance with WIC 309(e).
- When relatives request placement later in case, set court hearing to determine whether potential change in placement would be in child's best interests . If so, court can order agency to assess relative (WIC 362).



# Potential 2016 legislation:

## SB 1201/316 – Alignment of Criminal Background Reviews

- Would have simplified criminal history restrictions by conforming CA law on “nonexemptible crimes” to federal law. (Felonies involving violence, sexual misconduct and/or victimization of children no matter when committed; felonies involving drugs or assault within 5 years.)
- Would have separated other crimes into two tiers:
- Crimes requiring exemption: all crimes involving sexual misconduct and/or victimization of a child; all other felonies within past 7 years; and all other misdemeanors within 5 years.
  - Crimes not requiring exemption: all non-violent, non-sexual, non-child-related crimes older than 5 years (misdemeanors) or 7 years (felonies).
  - Crimes not requiring an exemption would be taken into account in RFA process.
    - Would have created a list of criteria for exemption decisions, and limited documentation requirements to records ‘reasonably available’ to applicants.
- Would have allowed placement with relative/NREFM pending an exemption, if all parties and court agreed.

# Issues addressed by SB 1201/316

- Current law on criminal history restrictions and exemptions is extremely confusing, leading to erroneous denials, long delays.
- Current law requires exemption for ALL crimes (for caregiver, all other household members, and anyone having regular contact with child), no matter how minor, how long ago the crime occurred, or how unrelated to child safety.
- Workload burden of processing exemption requests creates long delays – meanwhile, child is deprived of safe and familiar relative caregiver, often separated from siblings, placed far from school and neighborhood, etc.
- Lack of consistency, child safety focus in exemption decisions – over-emphasis on obtaining documentation.



# Best Practices for Alignment of Criminal Background Reviews

Without additional statutory changes, and county agencies and courts are bound by current law regarding criminal history restrictions, but agencies, courts, and children's attorneys can still ...

- Assign sufficient agency staff to process exemption requests, and assist applicants with exemption process and documentation requirements.
- Request court hearing to determine if an exemption was erroneously denied (e.g. crime was misidentified as “nonexemptible,” arrest was erroneously treated as conviction, crime was exemptible and unrelated to child safety, etc.)
- Request court hearings to address delays in exemption process.



# QUESTIONS?

