



Children Now



CWDA  
Advancing Human Services for the Welfare of All Californians



March 30, 2020

The Honorable Gavin Newsom  
Governor, State of California  
State Capitol  
Sacramento, CA 95814

**RE: Executive Order to Protect Children in Foster Care During COVID-19 Crisis**

Dear Governor Newsom:

Thank you for your leadership and partnership during this unprecedented public health crisis. We appreciate the steps you have already taken to address the issues impacting our state.

The 60,000 children in foster care in California have unique needs that must be accounted for during the COVID-19 crisis in order to ensure that they continue to be able to access foster care services and supports; have stability in their placements, and ongoing connection to their family. Our organizations, the Alliance for Children's Rights, Children's Law Center of California, Children's Legal Services of San Diego, Children Now, and Dependency Legal Services, provide legal representation and advocacy for children in foster care and their parents and are already seeing the impact of COVID-19 on children and families. We are writing to request that you issue an Executive Order to ensure that these children can access placements, have stability in their placements, are able to continue reunification efforts with their families, and can access and maintain eligibility for extended foster care.

**Executive Order Necessary to Protect Children in Foster Care**

Government Code Section 8571 grants you the authority to waive statutes when strict compliance would prevent, hinder, or delay appropriate actions to mitigate the effects of COVID-19 pandemic. We believe an Executive Order is necessary to ensure that children are not denied the opportunity to reunify with families as a result of complying with the state's Stay at Home order. In addition, we believe an Executive Order is necessary to ensure that youth who have experienced abuse and neglect are able to access extended foster care even if they are not able to get to court prior to their 18<sup>th</sup> birthday due to court closures. Finally, an Executive Order is necessary to ensure youth in foster care do not experience placement disruptions.

Specifically, we request the following relief during the period that began on March 4, 2020 with the issuance of your Proclamation of a State of Emergency as a result of threat of COVID-19 (“State of Emergency”) to protect our state’s most vulnerable children:

- **Family Reunification Services Timelines.** State and federal law impose timelines by which a parent must comply with their case plans in order to be able to reunify with their child and avoid a termination of parental rights. Compliance with these timelines is not realistic while the state is under a Stay at Home Order, as parents are not being afforded the opportunity to do the activities that are required by their case plan or, in many cases, to visit face-to-face with their children. Therefore, we request that the Executive Order extend the timelines regarding family reunification services set forth in Welfare and Institutions Code sections 361.5, 366.21(e), 366.21(f), 366.21(g)(1)(2) and (4), 366.22 and 366.25 may be extended for the amount of time equal to the time from when the Stay at Home Order was enacted, March 19, 2020, until sixty (60) days after the Stay at Home Order is lifted.
- **Ensure Continuity of Foster Care Funding During the Crisis.** Foster care benefits are provided to a resource family to meet the basic needs of the children in their care. Foster care funding can be terminated for a variety of reasons such as when Resource Family Approval (RFA) is rescinded although the child remains in the home or because of a failure to convert to RFA within specified timeframes. Therefore, we request that Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits paid pursuant to Welfare and Institutions Code 11460 and 11461 and Approved Relative Caregiver (ARC) benefits paid pursuant to Welfare and Institutions Code 11461.3 shall be continued without interruption as long as the child remains in the home from the period of time when the Stay at Home Order was enacted, March 19, 2020, until ninety (90) days after the Stay at Home Order is lifted.
- **Ensure Continuity of Adoption Assistance Payments (AAP) and Kinship Guardianship Assistance Payments (Kin-GAP).** It is critical that children who exited foster care to adoption or guardianship continue to receive critical financial supports through AAP and Kin-GAP during the crisis. Therefore, we request that discontinuances for Adoption Assistance Program and Kinship Assistance Program shall be suspended effective the date of this order, to the extent it is not inconsistent with federal law and the ability to maintain Medi-Cal coverage, through June 30, 2020.
- **Continuing Emergency Caregiver Funding Following RFA Denial or Failure to Meet RFA Timelines If The Child Remains in the Home.** Some families are granted emergency placement of a child but then do not ultimately get approved as a resource family, even though the court orders that the child remain in the placement (e.g. Do Not Remove Order). In other situations, resource family approval drags on for longer than the timelines allowed in statute which can result in the termination of emergency caregiver funding. In both situations, funding for the child is terminated. It is critical that during the COVID-19 crisis, all families caring for a foster child have access to funding to meet the child’s basic needs. Therefore, we request the provisions of Welfare and

Institutions Code 11461.36 pertaining to resource family approval timelines and termination of emergency caregiver funding if the resource family applicant is denied be waived as long as the child remains in the home from the period of time the Stay at Home Order was enacted, March 19, 2020, until ninety (90) days after the Stay at Home Order is lifted.

- **Preserving Eligibility for Non-Minor Dependents Who Cannot Meet Participation Criteria.** Due to school closures and layoffs, non-minor dependents are at risk of losing housing, services and support during this period because of an inability to meet Extended Foster Care participation criteria. Therefore, we request Welfare and Institutions Code section 11403, requiring a non-minor to meet certain participation criteria to be eligible for extended foster care, is waived from when the Stay at Home Order was enacted, March 19, 2020, until six (6) months after the Stay at Home Order is lifted, such that jurisdiction pursuant to WIC 391 cannot be terminated unless the non-minor does not wish to remain subject to dependency jurisdiction.
- **Extending Timeline for When a Youth Must Be Adjudicated a Dependent to Support Youth Approaching Age 18 Who Are Not Able to Get To A Jurisdictional Hearing Because the Courts Are Closed.** In addition, due to the court closures across the state, youth approaching their 18<sup>th</sup> birthday who are in need of protection by the foster care system may not be able to be adjudicated dependents by the time they turn 18 resulting in them being denied the protections of Extended Foster Care. Therefore, we request the provisions of Welfare and Institutions Code sections 358(d)(1)(a), requiring that a youth be found to be a minor described by Section 300 prior to the youth attaining 18 years of age, be extended to include any youth who is continuously detained pursuant to subdivision (c) of Section 319 from when the Stay at Home Order was enacted, March 19, 2020, until ninety (90) days after the Stay at Home Order is lifted.
- **Ensuring Relatives and Non-Related Extended Family Members Can Be Expeditiously Approved as Resource Families and Redeterminations of Approval are Suspended.** Children entering foster care or in need of a new placement must be able to be connected with relatives or extended family members in a timely manner and these families should be approved as resource families without delay. In addition, families already approved as resource families will not be able to complete the requirements for reassessments during the time of the Stay at Home order. Therefore, we request that any of the non-safety Resource Family Approval requirements included in Welfare and Institutions Code section 16519.5 are permitted to be waived by a county on a case-by-case basis when approving relatives and non-related extended family members and annual Resource Family Approval reassessments are suspended from the time the Stay at Home Order was enacted, March 19, 2020, until six (6) months after the Stay at Home Order is lifted.

### **Real-Time Solutions**

These short-term policies will address the significant real-time impacts of the COVID-19 crisis on children and youth in foster care. We, and our community partners signed below, respectfully request your support for these commonsense solutions.

Please contact Angie Schwartz, Alliance for Children's Rights, at (415) 867-4445 or [a.schwartz@kids-alliance.com](mailto:a.schwartz@kids-alliance.com) if you have questions. Thank you for your support of our most vulnerable children and youth and your leadership in this time of crisis.

Sincerely,



Angie Schwartz, Vice President, Policy & Advocacy  
Alliance for Children's Rights

Bar Association of San Francisco

Jennifer Rexroad, Executive Director  
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Court-Appointed Counsel  
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cc: Mark Ghaly, Secretary, Health and Human Services Agency  
Toni Atkins, President pro Tempore, California State Senate  
Shannon Grove, Republican Leader, California State Senate  
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