

May 28, 2008

ALL COUNTY LETTER NO. 08-26

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY CHILD WELFARE SERVICES  
PROGRAM MANAGERS  
ALL COUNTY CHIEF PROBATION OFFICERS  
ALL CDSS ADOPTIONS DISTRICT OFFICES  
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES

SUBJECT: FEDERAL AND STATE CHANGES TO REQUIREMENTS FOR  
INTERSTATE PLACEMENT OF CHILDREN AND CAREGIVERS  
RIGHTS

REFERENCES: U.S. Public Law (PL) 109-239 (Safe and Timely Interstate Placement of Foster Children Act of 2006); Senate Bill (SB) 703, Chapter 583 as filed on October 13, 2007; Welfare and Institutions Code Sections 291, 293-295, 361.5, 366.21, 366.22, 366.26; Family Code Sections 7901.1, 7906.5; Manual of Policies and Procedures (MPP) Division 31-510.53; All County Information Notice (ACIN) I-95-06

The purpose of this All County Letter (ACL) is to instruct county child welfare agencies (Child Welfare Services/Probation) and the California Department of Social Services (CDSS) Adoptions District Offices regarding recently enacted federal and state law changes that impact the placement of dependent children and wards of the court across state lines. The Safe and Timely Interstate Placement of Foster Children Act of 2006, enacted July 3, 2006, amended the Social Security Act to require that states:

1. Develop a process to ensure that foster care and adoptive home studies for children placed across state lines are completed within 60 calendar days and that the results are available to be reported to the federal government.
2. Establish a 14-day time frame for agencies to reject the foster or adoption home study done in another state for the purpose of placing a California child across state lines.

3. Ensure that caregivers have the right to be heard in any court proceeding.
4. Require the court to consider both in-state and out-of-state options in a variety of circumstances involving permanency planning decisions. These changes were intended to reduce the time a child waits in foster care before being placed into a foster or adoptive home.

While the effective date for the Safe and Timely Interstate Placement of Foster Children Act of 2006 was October 1, 2006, California was authorized to delay implementation pending enactment of state legislation applying the new federal requirements. SB 703 was recently passed to bring California laws into conformity with the Safe and Timely Interstate Placement of Foster Children Act of 2006. The pertinent provisions of SB 703 were effective January 1, 2008.

This ACL provides an overview of the new requirements and new procedures counties must follow to ensure compliance with those provisions of the Safe and Timely Interstate Placement of Foster Children Act of 2006 and SB 703 effecting the placement of children out of state. It is recognized that there are some unresolved issues regarding the details of implementing these changes such as data collection/documentation that will need to be further addressed at a later date via additional ACLs and ACINs.

## **FOSTER AND ADOPTIVE HOME STUDY TIMELINE REQUIREMENTS**

### **General Timeline Requirements**

The Safe and Timely Interstate Placement of Foster Children Act of 2006 adds a new requirement that states complete, report and return the results of a home study within 60 days of receipt of a request from another state that intends to place a child out-of-state. It provides certain exceptions to this requirement for home studies begun on or before September 30, 2008, where circumstances beyond the state's control create delay. The purpose of the home study is to evaluate the safety and suitability of placing a child in the foster or adoptive home and to address the extent to which the proposed placement will meet the specific needs of the child, including the child's safety, permanency and well being.

As a result of this federal enactment, SB 703 added Family Code sections 7901.1 and 7906.5. These sections require that within 60 days after California receives a request from another state to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the county child welfare agency or adoptions district office shall:

1. Conduct and complete the home study.

2. Return to the requesting state a report of the results of the study which addresses the extent to which the placement would meet or not meet the needs of the child. In determining whether a county or adoptions district office has completed a home study within the required 60-day time frame, counties and adoptions district offices will not be required to have completed the parts of the home study involving the education and training of the prospective foster or adoptive parents.

These Family Code sections similarly provide an exception to the timeline requirements for home studies conducted by counties on or before September 30, 2008. This exception applies if the county or adoptions district office is unable to meet the 60-day requirement because of circumstances beyond the control of the county or adoptions district office. These could include failure of a federal agency to provide the results of a background check or the failure of any entity to provide completed medical forms, if the background check or records were requested by the agency at least 45 days before the end of the 60-day period. The exception will only apply, however, if the county or adoptions district office documents that the request for information was made at least 45 days before the end of the 60-day period, and the county or adoptions district office can certify that completing the home study is in the best interest of the child. In the event these criteria are met, the county or adoptions district office will have 75 days to complete the home study. **After September 30, 2008, this exception will no longer apply.** Therefore, counties and adoptions district offices are strongly encouraged to immediately begin those parts of the home study which may necessitate additional time and documentation, such as criminal background checks, to ensure timely completion of all elements of the home study. Counties are specifically permitted pursuant to the Safe and Timely Interstate Placement of Foster Children Act of 2006 and SB 703 to contract with a private agency to complete the home studies described in this ACL.

#### Complete Home Study Request

The federal government has given states some latitude in determining what constitutes a complete home study request and, thus, what constitutes completion within the required 60-day time frame. In determining whether a home study request is complete, counties and adoptions district offices should look to the date that the county or adoptions district office had all relevant documents and information necessary to initiate the home study. This should be the date that the county or adoptions district office receives a completed Interstate Compact on Placement of Children (ICPC) 100A form with all appropriate attachments and necessary information as defined in the instructions attached to the ICPC 100A and directed by the Division 31 regulations (MPP) Division 31-510.53 and Title 22, Division 2, Subchapter 9, ICPC, Sections 35401 through 35409. Examples of relevant documents and information may include, but are not limited to, the child's social history, court orders, financial/medical plan, and home study of placement resource, IV-E eligibility documentation and Indian Child Welfare Act (ICWA) enclosures. The information needed may also include any narrative pertinent to determining the safety and suitability of the

home for the child as defined in the attachment's section of the ICPC 100A form. Please visit the following link for the complete ICPC 100A form, <http://www.childsworld.ca.gov/PG1316.html>.

In order to comply with the intent of the Safe and Timely Interstate Placement of Foster Children Act of 2006 requirements and to expedite the out-of-state placement of children, if upon receipt of an ICPC 100A request for a foster or adoptive home study from another state, the county or adoptions district office finds insufficient information to reasonably initiate the home study process, the county or adoptions district office should immediately contact the sending state agency and request any documentation/information necessary to initiate the home study request.

#### Reporting Results of the Home Study

In order to comply with these requirements, counties and adoptions district offices must report to the requesting state their findings of the home study within the 60-day time frame. In the event that specific additional information is needed to fully complete the home study evaluation, such as criminal background check information, counties and adoptions district offices should inform the requesting state within the 60-day time frame which home study elements have been completed to date and what additional information is still needed. Additionally, counties or adoptions district offices should inform the requesting state that the final report on the safety and suitability of placing the child in the home and the extent to which it will meet the child's needs will be made upon receipt of all needed documentation.

#### INCENTIVE PAYMENTS

The Safe and Timely Interstate Placement of Foster Children Act of 2006 also amends Section 473 of the Social Security Act to provide the opportunity for states to receive incentive payments of \$1,500 per out-of-state home study if states are able to demonstrate through verifiable data that home studies within the state are completed and reported within 30 days of receiving the home study request. **The law does not tie the incentive payment to an approval or denial of the home study, but to the timely completion of the out-of-state home study.** There has been no federal budgetary appropriation for such incentive payments for this year.

However, the CDSS will continue to work with the counties to enable them in the future to claim the offered federal financial incentive outlined in this law. Please note that the incentive payment provision is scheduled for repeal effective October 1, 2010.

#### TIMELINES FOR REJECTING FOSTER OR ADOPTIVE HOME STUDY BY OTHER STATES

The Safe and Timely Interstate Placement of Foster Children Act of 2006 adds a new provision to the Social Security Act at Section 471(a) (26) (B) which provides that a state shall treat any home study report received from another state or an Indian tribe as meeting

the requirements imposed by that state for the completion of a home study before placing a child. The only exception is if the requesting state makes a specific determination within 14 days of receipt of the report. That determination must be that based on grounds specific to the content of the report making a decision to place the child in reliance on the report would be contrary to the welfare of the child. California has adopted this requirement in SB 703 at Family Code sections 7901.1 and 7906.5. If the county or adoptions district office makes this determination, it should document the circumstances.

### **CAREGIVERS' RIGHTS TO BE HEARD**

The Safe and Timely Interstate Placement of Foster Children Act of 2006 modified Section 475(5)(G) of the Social Security Act so that caregivers have the "right" to be heard in "any proceeding" in lieu of the previous requirement that the caregiver had an opportunity to be heard "in any review or hearing." SB 703 also amended California law at Welfare and Institutions Code sections 291, 293, 294 and 295 to more specifically require that the probation officer, social worker or the clerk of the court, depending on the nature of the hearing, provide notice of hearings required by that code section to the current caregiver for the child, including foster parents, relative caregivers, pre-adoptive parents and non-relative extended family members. These code sections further clarify the right of the caregiver to attend any of the hearings and submit to the court any information the caregiver deems relevant. The Judicial Council Website has the appropriate Form JV-290, Caregiver Information Form, which may be utilized for this notification. Their website is: <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>

### **OUT-OF-STATE PLACEMENT CONSIDERATIONS IN CASE PLANNING DECISIONS**

The Safe and Timely Interstate Placement of Foster Children Act of 2006 amended Section 471(a)(15) of the Social Security Act to require that in-state as well as out-of-state placement options be considered as part of a child's permanency planning hearings. SB 703 also amended Welfare and Institutions Code sections 361.5, 366.21, 366.22 and 366.26 to similarly consider out-of-state placement options for the child at the hearings conducted pursuant to these code sections. Welfare and Institutions Code Section 16501.1 was further amended to require that, if out-of-home services are used and the goal is reunification, a child's case plan shall consider both in-state and out-of state placements, keeping in mind the importance of developing and maintaining sibling relationships and the desire and willingness of the caregiver to provide legal permanency if reunification is unsuccessful.

### **DATA REPORTING REQUIREMENTS**

The Safe and Timely Interstate Placement of Foster Children Act of 2006 includes specific data-reporting requirements regarding the total number of interstate home studies that were requested and completed by each state, in addition to the requirements on the timing of the home studies. The Federal Administration on Children, Youth and Families has the

authority to apply the partial review process described in 45 CFR 1355.32(d), if warranted, to determine the state's compliance. A partial review could lead to a program improvement plan and/or a penalty, depending on the individual state circumstances.

As a result, each state will need to gather and retain documentation to demonstrate compliance with the new timeline requirements for completion of home study requests. States will be required to document the circumstances that merit any 15-day extension (for a total of 75 days) for completing an out-of-state home study and must certify that completing the home study is in the child's best interest. It is up to the individual state to establish procedures for documenting that a 15-day extension is warranted.

Counties and the adoptions district offices will be required to continue to open a case in the Child Welfare Services/Case Management System (CWS/CMS) on the date that a complete incoming out-of-state home study request is received, in accordance with ACIN I-95-06 dated January 8, 2007. The date the case is opened in CWS/CMS will be the date the 60-day timeline will begin. The date the county provides the status update/final determination for the request will be the end date; that is, the date the timeline will stop. In addition, CDSS will be working with counties to develop appropriate CWS/CMS data-tracking mechanisms for counties and the adoptions district offices to use until such time as a permanent system change can be accomplished.

#### Tracking Time for Processing a Case

In the interim counties and adoptions district offices should keep track of the following areas for incoming ICPC cases:

1. The date of an incoming home study request (see Complete Home Study Request section).

The start date will represent the date the completed home study request was received.

2. The type of home study request.

The type of home study should also be recorded (adoptive, foster or parent).

3. The date the status update was provided to the requesting state if the final determination cannot be made because additional information is needed.

4. Reason for a delay (greater than 60-days):

- a. When the request for information (Criminal Background Check, CACI, Medical records) causes a delay, and the home study continues to be in the best interest of the child, this should be documented.

b. Date the additional information was received.

If the county or adoptions district office will not be able to meet the 60-day requirement it must track the reason for the delay and when the request for the information was made. Counties and adoptions district offices will also need to track the date the initial/pending home study results were sent to the requesting state prior to the 60-day deadline. It should also record when the delayed information or document was obtained (this would be the finalization in this situation).

5. Date of final letter.

If the date of the final issuance of determination on the safety and suitability of the home for the child is different from the status update, this should be recorded.

The CDSS is currently developing data reporting procedures for private agencies who are contacted by out-of-state public agencies. The CDSS will issue a separate ACIN that will provide reporting instructions.

Should you have any questions regarding the 60-day home study requirements or contents of this letter, please feel free to contact the Out-of-State Placement Policy Unit, Children's Services Operations Bureau at (916) 651-8100.

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Acting Deputy Director  
Children and Family Services Division

c: CWDA  
CPOC