

FILED

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Clerk of the Court
Superior Court of California County of Santa Clara
BY M. Fortuna DEPUTY

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
JUVENILE DEPENDENCY DIVISION**

**TEMPORARY EMERGENCY
ORDER MODIFYING DEPENDENCY COURT-ORDERED VISITATION
IN LIGHT OF COVID-19 PANDEMIC**

On March 16, 2020, the Santa Clara County Public Health Department issued an Order directing residents to “shelter in place” based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area. The Order was based on scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. County public health officer Sara Cody has described Santa Clara County as the epicenter of the COVID-19 outbreak in California.

Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization and has been declared a national emergency by the White House, it is essential to slow virus transmission as much as possible. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. The Santa Clara County Department of Family and Children’s Services (DFCS) serves in excess of 800 children in out-of-home care. Many of these children visit with their parents and siblings multiple times per week. The volume in the aggregate of transportation and interpersonal contact germane to in- person court-ordered visitation is antithetical to the objectives of the shelter in place order and is contrary to the general public health.

Welfare and Institutions Code section 362.1 mandates that visitation between children in out-of-home care and their parents must be as frequent as possible, consistent with the well-being of the child. Section 362.1 also outlines the importance of preserving and promoting sibling relationships. All dependency court stakeholders recognize that regular visitation is vital to families, and that visitation is the cornerstone of reunification. In making this order, the court balances the importance of visitation against the current pressing public health imperatives.

FOR GOOD CAUSE SHOWN, THE COURT FINDS AND ORDERS AS FOLLOWS:

1. Between March 18, 2020 and May 3, 2020, visitation ordered by dependency court judges for all dependency court cases will be made available via teleconferencing, Application (such as FaceTime, Facebook Messenger, or WhatsApp), or by telephone where the parent and the caregiver both have necessary equipment to accomplish one of these forms of visitation. In instances where the parent or caregiver lacks necessary equipment DFCS shall make efforts to identify any available resources and assist in the facilitation of telephonic or video contact wherever possible.
2. Where the child is in a confidential placement, DFCS will arrange three-way Skype or telephone calls that protect the confidentiality of both caregiver and parent. DFCS will devote dedicated staff to arrange these calls and will offer call frequency in excess of the current court-ordered visitation, unless the juvenile court has made a finding that such visitation is detrimental to the child. Where a parent's visitation with a child is held in a therapeutic setting, visits shall occur at the court-ordered frequency.
3. Where the caregiver and the parent have necessary equipment, the caregiver will send periodic photographs of the child to the parent via email or by telephone. Such photos can be sent through the social worker where the placement is confidential.
4. DFCS, Office of the County Counsel, Dependency Advocacy Center, and Legal Advocates for Children and Youth will each analyze pending cases in which parents are receiving both family reunification services and unsupervised visits and cases in which a child is in out-of-home care pending a jurisdiction or disposition hearing. Upon email request by any court partner, the attorneys and assigned social worker will convene via teleconference to discuss whether a parent and child can be safely reunited or authorized for an extended visit immediately despite the lack of a pending court date. For cases in which parents are receiving both reunification services and unsupervised visits, where no party objects, DFCS shall authorize an extended visit. In instances where there is no objection to immediate return, DFCS shall efile an Application and Order requesting that the court order the child returned to the parent on a plan of Family Maintenance. For cases in which a child is in out-of-home care pending a jurisdiction or disposition hearing and in which the court did not explicitly grant social worker discretion to return the child home pending jurisdiction or disposition, where no party objects to return, counsel shall contact the assigned judge via email to determine if a return to a parent pending the jurisdiction or disposition hearing is authorized. The judge will respond to the request on an expedited basis.
5. Social workers will authorize and encourage expanded telephone, text message, and social media contact between age-appropriate youth and their parents where this can be accomplished consistent with the well-being of the youth.
6. Where the assigned social worker assesses based on the facts of the particular case that a child would suffer significant emotional harm from a suspension of in-person visitation, DFCS shall continue to arrange in-person visitation as long as such visitation can be accomplished while complying with social distancing directives, excluding between the parent, child, and the child's transport person. If the parent and child currently have overnight

visitation, there is a presumption that ceasing such overnight visits would be significantly emotionally harmful to the child. If the child is under the age of three, there is a presumption that not providing in-person visitation would be significantly emotionally harmful to the child. In making this determination, the social worker shall consider all of the following: the parent's historical consistency of visitation, any available therapeutic recommendations regarding the impact on the child of visitation, and risk to participants due to any preexisting health conditions or related vulnerability of children, parents, or caregivers. Any available data about instances where this paragraph is invoked shall be presented, in deidentified fashion, during the weekly teleconferences referenced in paragraph 11 of this order.

7. Where the assigned social worker assesses that a caregiver and a parent are able to safely, willingly, and appropriately coordinate visitation, such as in an open outdoor space where social distancing can be accomplished and where there is no use of playground equipment, the social worker may authorize such visitation. The caregiver, parent, and child shall follow Center for Disease Control recommendations around hygiene practices, including washing hands before and after visits. The caregiver shall assess the parent and child before the visit for presence of symptoms and shall not allow the visit to proceed if either show any symptoms of illness. The caregiver shall immediately notify the social worker when a visit is cancelled due to symptoms.

8. Sibling visitation shall be suspended during the duration of this order, unless such suspension would cause significant emotional harm to the child under the criteria outlined in paragraph 6, or if the visitation can be safely, willingly and appropriately arranged between caregivers within the parameters described in paragraph 7.

9. All court partners agree to jointly create educational materials and reference guides for caregivers on the importance of supporting increased telephonic and video contact, and the use of those mediums, during the period of time where in-person visitation is significantly limited or suspended. DFCS shall provide these materials to caregivers via email, posting on the internet or other available means.

10. No in-person visitation shall occur between March 18, 2020 and May 3, 2020 other than as outlined in items 4, 6, 7, 8 and 9, above.

11. The dependency court partners shall meet weekly by teleconference to discuss the provisions of this order and the effectiveness of its implementation.

12. This order is not intended to supersede the Emergency Rules adopted April 6 2020 by the Judicial Council of California, and to the extent there are conflicts between this order and Emergency Rule 6, the Emergency Rule governs.

4/10/2020
Date

Shawna Schwarz
The Honorable Shawna Schwarz
Supervising Judge of the Juvenile Court