



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

PATERNITY; ICWA, WIC 224.3(e)(1)

In re William K. – Filed March 24, 2008, Third Dist.

Docket No: C055107

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/C055107.DOC>

Ronald F. and mother lived together when mother became pregnant. Before the child's birth, mother learned that Ronald had a history of sex offenses when Ronald was arrested and incarcerated for failure to register as a sex offender. Mother and another man, W.K., signed a declaration of paternity and put W.K.'s name on the child's birth certificate. Child was detained from mother due to drug exposure. When notified of the dependency proceedings, Ronald completed forms claiming Indian heritage and requesting paternity testing. Ronald was released and attended the jurisdictional hearing. The juvenile court denied him services because he was a mere biological father and W.K. was a presumed father, and refused to set aside W.K.'s paternity declaration. After receiving responses from the tribes, the court found ICWA did not apply. Ronald F. appealed.

Affirmed. Juvenile court properly found that it was not in the child's best interests to set aside W.K.'s paternity declaration, even though Ronald F. was the biological father, because Ronald F. was a sex offender, did not have any relationship with the child, and did not qualify as a *Kelsey S.* father. WIC 244.3(e)(1), requiring tribes' responses to ICWA notices to address both tribal “membership” and tribal “enrollment,” became effective after the jurisdictional hearing and is not retroactive. Moreover, Ronald F. waived this issue by failing to raise it at a hearing after WIC 244.3(e)(1) became effective. (MM)



OTHER LEGAL DEVELOPMENTS

New or Revised Los Angeles County Department of Children and Family Services Policies of Significance –

For Your Information (FYIs):

08-13 Requesting Case Record Information From Probate and Family Law Court

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0813Requestinginffamilylawprobatecourt.doc>

This FYI is to advise DCFS staff that effective immediately, to receive specific case information from the Probate and Family Law Courts, DCFS staff must complete a Request for Information form. The form can be found at:

<http://lakids/DCFS/forms/Court/RequestforInfProbaateFLCourts.doc> (SA)

08-14 Civil Rights PUB 13 Pamphlet

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0814CivilRightsPam.doc>

This FYI is to advise staff that the Civil Rights Pub 13 Pamphlet, “Your Rights Under California Welfare Programs” should be distributed to DCFS clients at initial contact of all Emergency Response referrals. In addition, clients should continue to receive the DCFS 2457, “Civil Rights Information” form. (SA)

Procedural Guides:

0070-548.05 (REV) Emergency Response Referrals Alleging Abuse In Out-Of-Home Care Regarding Children Who Are Under DCFS Supervision

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054805v0308.doc>

This procedural guide was revised to instruct the Child Protection Hotline staff to discontinue using substantial risk as an allegation, pursuant to All County Letter 07-52, “The Use Of Substantial Risk as an Allegation.” (SA)

0080-507.20 (REV) Concurrent Planning And The Concurrent Planning Assessment

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0080/008050720v0308.doc>

This procedural guide was revised to instruct staff that a face-to-face contact with a child 11 years or older in the course of completing the concurrent planning assessment is not mandatory. However, telephone contact is still required. (SA)

0070-547.11 (REV) Timeframes For Responses To Referrals

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054711v0308.doc>

This procedural guide was revised to explain the different types of referrals that can be made, including, immediate response referral, five day referral, and initial referral, and the procedure and timeframe for responding to each referral. (SA)

0300-506.08 (REV) Communication With A Child's Attorney

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050608v0308.doc>

This procedural guide was revised to reflect current California Rules of Court which require notice to child and opportunity for a hearing prior to child's transfer from his or her school of origin as well as notice to the child's attorney. The DCFS 5402 form was revised to reflect this notification requirement. Changes were also made to reflect current procedure in obtaining contact exception approval. (SA)

0300-503.97 (REV) Report On Notice Of Replacement

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050397v0308.doc>

This procedural guide was revised to reflect recent California Rules of Court pertaining to the right of dependent children to receive notice and opportunity for a hearing prior to child's transfer from his or her school of origin. (SA)

1200-500.85 (REV) Special Immigration Status (SIS)

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/1200/120050085SISv0308.doc>

This procedural guide was revised to add instructions on referring each qualifying undocumented child receiving permanent placement services to the DCFS Special Immigration unit for the purpose of applying for his/her Permanent Resident Card. (SA)

0070-548.10 (REV) Disposition Of The Allegation And Closure Of The
Emergency Response Referral

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054810v0308.doc>

This procedural guide was revised to add that the investigating CSW must inquire if the family has American Indian Heritage by completing the DCFS 5649 form on every referral, and every family must receive the Civil Rights Pub 13 Pamphlet along with the DCFS 2457, Civil Rights Information Form. It also discusses when it is appropriate to use the allegation of "substantial risk." (SA)

0600-508.00 Foster Youth Substance Abuse Services

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0600/060050800FosteYouthSubstanceAbuseServicesv0308.doc>

This procedural guide discusses the protocols for “Drug Court” for children 12 years or older with cases in Department 408, 410, and 418. It discusses the process for screening the children for drug and alcohol abuse and providing them with appropriate substance abuse treatment, if the child chooses to participate. (SA)