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MAY 01 2020

CLERK OF THE NAPA SUPERIOR COURT
BY K. Rose
DEPUTY

Superior Court of California
County of Napa

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

On March 18, 2020, the Napa 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 remains in place today. 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. 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 Napa County Health and Human Services Agency, Department of Child Welfare Services Division ("CWS") serves a significant amount of 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 361.2 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 361.2 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 May 1 and May 31, 2020, all visitation ordered by dependency court judges for all dependency court cases will be via teleconferencing, Applications (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 for one of the above-named methods, CWS shall make efforts to ensure telephonic or video contact occurs, understanding that such contact may not ultimately take place.

2. Where the child is in a confidential placement, CWS will arrange three-way Skype (or similar method) or telephone calls that protect the confidentiality of both caregiver and parent. CWS will

devote dedicated staff to arrange these calls 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. The "court partners", specifically CWS, Office of the County Counsel, Counsel for the parent(s), and Counsel for the minor(s), 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. Where all parties agree, CWS shall authorize an extended visit. In instances where all agree to immediate return, CWS shall e-file an Application and Order requesting that the court order the child returned to the parent on a plan of Family Maintenance.

5. Social workers may 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. 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. As overnight visitation is a vital component in any reunification,, CWS will submit information to the court for any cases where a determination is made either to terminate overnight visits, to expand to an extended visit, or to recommend the case be transferred to family maintenance.

7. Sibling visitation shall be suspended during the duration of this order, unless it falls within one of the exceptions outlined in this agreement for parent and child visitation.

8. All court partners agree 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. CWS shall promote increased telephonic and video contact when it has been determined by the social worker to be safe for the minor, consistent with the best interests of the minor, and CWS has the actual logistical ability to implement the increase.

9. Notwithstanding the general order limiting in person visitation, the Court grants CWS the discretion to allow in-person visitation between foster children and youths and their parents or guardians, if CWS assesses the safety and health of the parent or guardian, foster child, and caregiver, and determines that visitation would not be detrimental to the safety or health of the parent or guardian, the child, or the caregiver. Such visitation shall occur at the time, place and

manner set forth by the assigned protective services worker. Visitation will be in compliance with Federal, State and Local orders related to the containment of the Covid-19 virus. 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.

10. The dependency court partners shall meet once every two weeks by teleconference to discuss the provisions of this order and the effectiveness of its implementation. If an emergency conference is needed, any court partner or the court can schedule a meeting.

11. All orders for drug testing will be temporarily suspended until further notice from the Court.

12. Any in-person counseling sessions required in a case plan are also temporarily suspended until further notice from the court. However, when feasible, and in a child's best interest, CWS is encouraged to arrange for video therapy.

13. All other services in case plan requiring in-person contact which is contrary to any Shelter in Place orders by the County of Napa, the State of California, or any other County where a dependent child may be placed or a parent may reside shall be temporarily suspended pending further notice from the court.

14. This Amended Agreement shall supersede and replace the "Amended Temporary Emergency Order[s] Modifying Dependency Court Ordered Visitation In Light of the Covid-19 Pandemic" signed and filed by the court on March 20, 2020 and April 6, 2020.

IT IS SO ORDERED

Cynthia P. Smith

The Honorable Cynthia P. Smith
Assistant Presiding Judge of the Juvenile Court

DATE: April 30, 2020