



Relative Placement: The Best Answer for Our Foster Care System

By Judge Leonard Edwards

ABSTRACT

This article briefly traces the history of the placement of children out of their homes because of parental abuse or neglect. The preference for relative placement is a recent occurrence. The advantages of relative placement instead of foster or group care are summarized as well as the disadvantages. Relative placement rates across the country are about 32%. Several jurisdictions have much higher placement rates including Allegheny County, Pennsylvania. Los Angeles, California, is experimenting with social work practices that have produced over 80% relative placement rates during the past year. How both of these jurisdictions accomplish high relative placement rates is described in detail. Judges should persuade their own social service agencies to adopt these practices.

Key words: Foster care, Relative Placement.

HISTORY

When the juvenile court removes a child from parental care because of abuse or neglect, what type of placement best meets his or her needs? In the United States, the answer to this question has evolved for more than a century.

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The author is thankful for the information gathered from the two Los Angeles pilot projects and the cooperation from Regional Administrators Jennifer Lopez (Santa Fe Springs Office) and Aris S. Banico, M.A. (Glendora Regional Office). The author acknowledges the advocacy efforts of Judge Michael Nash (ret.), now the Director of the Office of Child Protection in Los Angeles for his long-standing support of relative placement. The author is also grateful for the assistance provided by Corby Sturges from the Center for Families, Children & the Courts, a division of the California Judicial Council, from Rob Waring, a Managing Attorney representing children in Alameda County, and Sidney Hollar, Esq., a practicing attorney in San Francisco.

In the 19th century Charles Brace¹ led a movement to place abused, neglected and abandoned children with families. The famous Orphan Trains he created moved more than 100,000 children to homes in the Midwest. In spite of these efforts, at that time most children living out of home were placed in orphanages and other types of congregate care. By 1910, there were over 1,000 orphanages in the United States and their average size had grown significantly since the late 19th century.² The number of children in orphanages peaked in the 1920's with 143,000 residents in 1923.³ After the White House Conference on Children in 1909, the national policy moved towards placing children in families and foster care was born.⁴ Federal legislation provided single mothers with financial aid which enabled their children to remain at home, and those children without parents would be placed in foster care. However, foster homes as an alternative to congregate care grew very slowly in the 20th century. It was only after the passage of the Indian Child Welfare Act⁵ and the Adoption Assistance and Child Welfare Act of 1980⁶ that the numbers of children placed in foster care surpassed congregate care as the preferred placement for children removed from their parents' home.

FOSTER CARE

There are significant problems with foster care. First, many children placed in foster care do not like the foster home. After all, they are placed with strangers. That transition can be traumatic.⁷ Some of these children run away from foster care, while others are separated from their siblings, particularly if there is a large sibling group. Second, many children move from foster home to foster home, never settling into a long-term placement, a phenomenon referred to as foster care drift.⁸

Third, and perhaps most important, there are not now, nor will there ever be enough foster homes to meet the demand. In spite of millions of dollars spent on community outreach and efforts by social service agencies, judges, and other child advocates, the number of available foster homes has never matched the numbers of children needing out-of-home placement. Recently, the crisis involving opioid misuse has led to the need for additional foster homes, and jurisdictions around the country have been unable to

¹ Charles Brace was an American philanthropist who contributed to the field of social reform. He is considered a father of the modern foster care movement and was most renowned for starting the Orphan Train movement of the mid-19th century, and for founding Children's Aid Society. Myers, John E.B. *The History of Child Protection in America*, (Xlibris, 2004) at pp. 46–67

² Myers, John E.B., *Id.*

³ Olasky, Marvin, "The Rise and Fall of American Orphanages," in *Rethinking Orphanages for the 21st Century*, Ed., by Richard McKenzie, Sage, Thousand Oaks, 1999, at p. 74.

⁴ Three years later the Children's Bureau was created and funded by Congress.

⁶ Public Law 95-608; 25 U.S.C. §§1901 *et seq.*

⁶ Public Law 96-272, 42 U.S.C. §670 *et seq.*

⁷ See Mitchell, Monique, *The Neglected Transition: Building a Relational Home for Children Entering Foster Care*, Oxford University Press, 2016.

⁸ The term refers to the plight of children who drift aimlessly in foster care without a case plan for their permanent care. Maas HS, Engler, Jr., R.E. *Children in need of parents*, New York: Columbia University Press; 1959.

provide enough homes for these children.⁹ One indication of the inability of foster homes to meet the placement needs of out-of-home children is that approximately 20,000 children “age out” of foster or congregate care every year, never having reached a permanent placement despite the efforts of many professionals.¹⁰

Where will homes be found for the children who cannot live with their birth parents? Certainly not in congregate care. Ironically, congregate care which provided almost 100% of all placements 120 years ago is now the least-favored placement. Federal law does not consider it a permanent placement and requires social workers and judges to take extraordinary steps to find a permanent home.¹¹

RELATIVE PLACEMENT

The best answer is placement with relatives. That conclusion came very late to the United States government. For years, the federal government did not favor relative placement, likely because of the old adage that “an apple does not fall far from the tree.” The prevailing view was that because the parents demonstrated they are abusive or neglectful, their own parents must have been at least partially responsible for their inability to be safe parents. Moreover, the relatives may have known about the abuse/neglect and done nothing about it.

Late in the 20th century federal policy finally changed.¹² With the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008, relative placement became a preferred placement to foster care and a recognized permanent plan.¹³ Relative placement was already a preference in the Indian Child Welfare Act of 1978, but only for Native American children.¹⁴ Relative preference for placement is now federal law for all children, and many states, including California, added parallel statutes that reflect those changes.¹⁵

⁹ Dr. John DeGarmo, “How The Heroin Crisis Is Straining Foster Care” http://www.huffingtonpost.com/entry/how-the-heroin-crisis-is-straining-foster-care_us_58ed0740e4b0ea028d568d3c; Sarah Catherine Williams and Kerry Devoogt, “Five things to know about the opioid epidemic and its effects on children,” *Child Trends*, June 2, 2017; Sherry Lachman, “The Opioid Plague’s Youngest Victims,” *The New York Times*, OP-ED, Friday, December 29, 2017, A25; Serena Gordon HealthDay Reporter, “The Opioid Crisis’ Hidden Victims: Children in Foster Care,” http://www.philly.com/philly/health/topics/HealthDay729966_20180108_The_Opioid_Crisis__Hidden_Victims__Children_in_Foster_Care.html; January 2018; Carrie McDermott, “No. 1 reason children in foster care is parental drug use,” http://www.wahpetondailynews.com/news/no-reason-children-in-foster-care-is-parental-drug-use/article_fceadcc2-f4cc-11e7-97c8-eb8e98f766bf.html, January 9, 2018; <http://www.wearegreenbay.com/news/local-news/number-of-foster-children-doubles-in-wisconsin-due-to-drug-and-opioid-epidemic/1144701083>

¹⁰ Greeson, K.P., and Thompson, A.E., *Aging Out of Foster Care*, The Oxford Handbook of Emerging Adulthood, September, 2014; *Child Welfare Outcomes: 2010-2014: Report to Congress*, U. S. Department of Health and Human Services, Administration for Children, Youth and Families, Children’s Bureau, Appendix F, p. F3.

¹¹ See P.L.113-183 §§112-113.

¹² See Edwards, Leonard, “Relative Placement in Child Protection Cases: A Judicial Perspective,” *Juvenile & Family Court Journal*, Vol. 61, No. 2, (Spring, 2010) 1-44 at p. 8. This article is available for download at no cost at judgeleonardedwards.com.

¹³ P.L. 110-351.

¹⁴ P.L. 95-608; 25 U.S.C. §§1901 *et. seq.*

¹⁵ For example, see California Welfare & Institutions Code §361.3.

Placing children with relatives also reflects what families have done for decades. While nationally there are approximately 470,000 children in care through state child welfare systems, over 2,500,000 children reside with relatives through informal family placements.¹⁶

Relative care placement is now considered a best practice, one that benefits the child in many ways. Studies show that children in relative care tend to be just as safe, or safer, than children placed in foster care.¹⁷ As the children likely know the relatives, relative placement minimizes trauma. The relatives are more likely than foster parents to take large sibling groups, which maintains sibling contacts.¹⁸ Research has demonstrated that children placed with their kin fare better than those placed in foster care. They experience better stability, have fewer placement changes, fewer behavior problems,¹⁹ and not as many school changes.²⁰ Living with relatives helps preserve a child's cultural identity and community connections, and eliminates the unfortunate stigma that many foster children experience.²¹

There are disadvantages to placement with relatives rather than in foster care. Foster parents are usually better trained to receive children into their homes.²² After all, foster parents must be licensed to care for children and the licensing process involves formal training. Moreover, foster parents usually are more economically stable. Nevertheless, national policy now clearly favors relative placement over foster care. Data support this conclusion. Relative placements are the most stable placement, followed by foster care and finally by congregate care. A recent California study addressed placement stability. The study measured stability in different types of placement including relative (kin) care, foster care, and group care and how many children re-entered care while in each type of placement. Re-entries refers to the

¹⁶ Annie E. Casey Foundation Kids Count Data Center. 2013–2015 Current Population Survey Annual Social and Economic Supplement (CPS ASEC). Estimates represent a three-year average. Accessed March 4, 2017. Retrieved from <http://datacenter.kidscount.org/data/tables/7172-children-in-kinship-care?loc=1&loct=1#detailed/1/any/false/1491/any/14207,14208>.

¹⁷ A. Shalonsky, and J.D. Berrick, "Assessing and Promoting Quality in Kin and Non-Kin Foster Care," 75 Social Service Review (2001) at pp. 60-83.

¹⁸ A. Shalonsky, D. Webster, & B. Needell, *The Ties That Bind: A Cross-Sectional Analysis of Siblings in Foster Care*, 39 Journal of Social Service Research 27-52 (2003); L. Ehrle & R. Geen, *Kin and Non-kin Foster Care: Findings from a National Survey*, Children and Youth Services Review (2002) at pp. 15–35.

¹⁹ Rubin, David, Kevin J. Downes, & Amanda L. O'Reilly, "Impact of Kinship Care on Behavioral Well-Being for Children in Out-of-Home Care," *Arch. Pediatric & Adolescent Med.* Vol. 162, No. 6, 550-556 (2008).

²⁰ See Generations United. *Children Thrive in Grandfamilies*, (2016) – (fact sheet available at www.grandfamilies.org/Portals/0/16-Children-Thrive-in-Grandfamilies.pdf). "I think that I like to consider relative placements really seriously because of watching so many kids fail in foster care." *Kinship Care, op.cit.*, footnote 5, at p. 36; Berrick, J.D., Barth, R.P., & McFadden, J. (1992) *A Comparison of Kinship Foster Homes and Foster Family Homes: Implications for Kinship Foster Care as Family Preservation*, Child Welfare League of America North America Kinship Care Policy and Practice Committee, Washington, D.C.; Courtney, M., & Needell, B., "Outcomes of Kinship Care: Lessons from California," *Child Welfare Research Review*, Volume 2, Ed. By Berrick, J.D., Barth, R., & Gilbert, N., Columbia University Press, N.Y., at pp 130–149; Berrick, J.D., "When Children Cannot Remain Home: Foster Family Care and Kinship Care," *Protecting Children from Abuse and Neglect*, Vol. 8, No.1, (1998) at pp. 72–87; Chamberlain, et.al., "Who Disrupts from Placement in Foster and Kinship Care?," *Child Abuse & Neglect*, Vol. 30, at 409 (2006).

²¹ These are only some of the advantages of relative care. For additional advantages see Edwards, *op.cit.*, footnote 13 at pp.10–13.

²² Gebel, T.J., "Kinship Care and Non-Relative Family Foster Care: A Comparison of Caregiver Attributes and Attitudes," *Child Welfare*, Vol. LXXV, #1, January-February, at pp. 5–18.0

number of children who leave placement and have to be placed again. In the study children in relative care re-entered the system (left their placement) in 7.5% of the cases, while children placed in foster care re-entered the system 13.4% of the time, and children placed in congregate care (group homes) re-entered in 20.7% of the time.²³

The same researchers measured placement stability for children who entered care between January 1st and June 30th, 2016, and who were still in care at the same placement 12 months later. 90.6% of children placed with relatives remained in that care after a year, 72% of children placed in foster care were in the same home a year later, while only 37.1% of children placed in group homes (congregate care) remained in that care a year later.²⁴

Nationally, 32% of children placed in out-of-home care live with relatives, 45% live in foster (non-relative) care, 5% live in group homes, and 7% live in institutions.²⁵ Figure 1 gives the state-by-state percentages of the numbers of children placed in relative care in each state.²⁶

INCREASING RELATIVE PLACEMENT

These are low numbers for placement in relative care. We can and should substantially increase the number of children placed in relative care when children are removed from their parents. The increase must come from improved social worker practice as it has in Allegheny County, Pennsylvania, where 65% of placements by the children's services agency are with relatives.²⁷ It also comes from family engagement as in New Zealand where the Family Group Conference has resulted in 53% of children being placed by the court in relative care.²⁸ It can even be higher than in those jurisdictions.

The approach taken by social service agencies in the most successful jurisdictions seems straight forward. In larger jurisdictions, such as Allegheny County, a team of social workers has been created whose job it is to identify and engage relatives.²⁹ When the team learns of a removal, the members immediately are working on a number of

²³ The data for these studies were provided by Daniel Webster, a research specialist at the U.C. Berkeley School of Social Welfare's Center for Social Services Research (CSSR), where he serves as principal investigator of the California Child Welfare Indicators Project (CCWIP). Daniel Webster et al., *CCWIP Reports* (2017), at http://cssr.berkeley.edu/ucb_childwelfare/Stability.aspx.

²⁴ These figures are from California.

²⁵ The AFCARS Report, FY 2016 data, as of October 20, 2017, No. 24.

²⁶ Annie E. Casey Foundation Kids Count Data Center. Child Trends analysis of data from the Adoption and Foster Care Analysis and Reporting System (AFCARS), made available through the National Data Archive on Child Abuse and Neglect. Retrieved November 10, 2015 <http://datacenter.kidscount.org/data/tables/6247-children-in-foster-care-by-placement-type?loc=1&loct=1#detailed/2/2-52/false/36/2621/12995>.

²⁷ For additional information about social work practice in Allegheny County, see Edwards, Leonard, "How To Improve Outcomes For Abused And Neglected Children: Engaging Relatives Early", Summer 2016, *The Bench*, the official magazine of the California Judges Association, Sacramento, CA. A copy is available from the author's website: judgeleonardedwards.com

²⁸ Email from Dr. Sarah Hayward, Principal Advisor, Monitoring and Investigations, Office of the Children's Commissioner, New Zealand. Copies of the data provided by Dr. Hayward are available from the author.

²⁹ Email and telephone conversations with Marc Cherna, Director, Allegheny County Children Youth & Families. A copy is available from the author.

Figure 1. Percentages of Children in Relative Care State by State

Alabama	11%	Missouri	26%
Alaska	21%	Montana	43%
Arizona	41%	Nebraska	24%
Arkansas	16%	Nevada	33%
California	32%	New Hampshire	19%
Colorado	20%	New Jersey	35%
Connecticut	24%	New Mexico	22%
Delaware	12%	New York	19%
District of Columbia	18%	North Carolina	26%
Florida	44%	North Dakota	15%
Georgia	17%	Ohio	16%
Hawai'i	48%	Oklahoma	33%
Idaho	29%	Oregon	19%
Illinois	36%	Pennsylvania	26%
Indiana	32%	Rhode Island	30%
Iowa	28%	South Carolina	6%
Kansas	27%	South Dakota	18%
Kentucky	4%	Tennessee	13%
Louisiana	34%	Texas	33%
Maine	33%	Utah	19%
Maryland	39%	Vermont	27%
Massachusetts	23%	Virginia	6%
Michigan	31%	Washington	35%
Minnesota	21%	West Virginia	19%
Mississippi	31%	Wisconsin	34%
		Wyoming	26%

issues. They use family finding³⁰ to identify, locate, and engage relatives. They check the potential living situation of relatives to see whether it is suitable for the child or children. They run background checks to see if there are any criminal or child welfare issues that would make it illegal to place the child with the relative. They also use Kinship Navigators to assist in the relative searches.³¹ Social workers can accomplish much of this work electronically either from their office or even in a car as they drive towards the scene of the removal.

³⁰ Family Finding, developed by Kevin Campbell, uses a search engine to identify and locate a child's family members. The federal government identified Family Finding as a best practice in the Fostering Connections Legislation of 2008. P.L. 110-351 §102.

³¹ Email from March Cherna, *op.cit.*, footnote 31. Kinship Navigators are another best practice identified by the Fostering Connections Legislation. *Id.*

In New Zealand, the use of Family Group Conferencing accomplishes much of what happens in Allegheny County. Family Group Conferencing is a part of the New Zealand Constitution. It requires that there be an organized family meeting to discuss the crisis in the child's life before any court action is taken in either dependency or juvenile justice cases.³² Placement decisions in New Zealand are strongly influenced by family participation in the decision-making process.

Los Angeles County is currently experimenting with increasing the numbers of children placed with relatives. Four of the 20 Regional Offices of the county Department of Children and Family Services (Santa Fe Springs, Glendora, Vermont Corridor and West Los Angeles) use similar practices to identify, engage, and clear the legal and bureaucratic hurdles that have for years delayed the relative placement process. With a population of over 10,000,000, each office averages a 500,000 population. These offices start looking for relatives when a case first comes to the attention of social services. If the office knows a judge is issuing a protective custody warrant, social workers immediately start to canvass for relatives and non-relative-extended-family members (NREFMs) such as family friends, god-parents, and similar close family friends). The office uses a search engine called Family Finding³³ to identify and locate "lost" relatives.³⁴ They also do a better job of finding "non-offending" fathers, as this identifies both fathers and their extended families as possible placements. After all, fathers provide on average 50% of a child's relatives.³⁵ Even locating relatives who are not suitable for placement can still provide benefits to the family if they want to be a part of the team to assist the child and parents in reaching their goals. All these actions have developed a spirit within the social service offices that places great emphasis on locating and engaging relatives as soon as possible.

The four regional office policies and procedures allow social workers to make emergency placements. They run a California Law Enforcement Telecommunication System (CLETS) search to ensure there is no record of criminal offenses that cannot be granted an exemption and a Child Welfare Services/Case Management System (CWS/CMS) search to ascertain there is no Department of Children and Family Services (DCSF) history.³⁶ The offices expedite criminal waivers for prospective relative caregivers, depending on

³² Section 18(1), Children, Young Persons and their Families Act 1989, (1989 No. 24) Laws of New Zealand, Wellington, N.A. (2005); Edwards, L., & Sagatun, I., "The Transition to Group Decision Making in Child Protection Cases: Obtaining Better Results for Children and Families," *Juvenile and Family Court Journal*, Vol. 58, No. 1 (2007) at pp. 1-16.

³³ Family Finding is the name given to the process developed by Kevin Campbell, the social worker, researcher, and creative genius who first started using the new technology in the child welfare field. For the history of Family Finding see M. Shirk, *Hunting for Grandma: 'Family Finding' Strategy Connects Foster Kids With Relatives and Permanent Homes*, Youth Today, Feb. 2006; see also Edwards, L., & Sagatun-Edwards, I., "The Transition to Group Decision Making in Child Protection Cases: Obtaining Better Results For Children and Families," *Juvenile and Family Court Journal*, Winter, 2007, Vol. 58, No.1 at pp. 1-16.

³⁴ Many child welfare agencies in the United States use Family Finding, a search engine developed by Kevin Campbell. See <http://www.familyfinding.org/> and refer to footnote 31.

³⁵ Regarding the importance of identifying, locating and engaging fathers in the juvenile dependency process, see Edwards, L., *Engaging Fathers in the Child Protection Process: The Judicial Role* Spring, 2009, *Juvenile and Family Court Journal*, vol. 60, No. 2, at pp. 1-30.

³⁶ The CLETS data base contains criminal records while the CWS/CMS system contains records of contacts with the child welfare system. These background checks are required by law.

the criminal offense. They can approve placement when the criminal record is a misdemeanor and for certain offenses which occurred a long time ago. Emergency Response (ER) social workers immediately conduct in-person interviews of all prospective relative caregivers. Given the emergency involved in the placement, they conduct these on the same day as the placement. ER staff members complete an initial home assessment at the time of the placement to ensure the home meets initial criteria and that there is an appropriate sleeping arrangement for the child or children. According to the regional administrators, the most significant barriers are criminal waivers and space at the relative home as many relatives live in small places, often apartments.

Recent California legislation, Continuum of Care Reform,³⁷ allows placing children with a relative under emergency circumstances using the new Resource Family Assessment (RFA) guidelines.³⁸ After social workers have placed the children, the RFA social workers conduct more intensive background checks such as Live-Scans during the home study process. If a criminal history appears during the Live-Scan checks, the RFA staff will assist the family to apply for a waiver so long as the crime meets waiver criteria.

This early and intensive work permits the child to go directly from their home into relative care without spending any time in foster care. One regional director said that sometimes children go from their home to the relative home directly with no intermediate placement.³⁹ The offices provide relatives with a temporary stipend (\$400.00 a month per household) for three months to help the relatives adjust to the additional children in their care. Because most relatives need economic support to manage the additional members in their household, this is critical support.⁴⁰ Since the county and state are saving Title IVE dollars by avoiding foster care, it makes sense that they should pass on some of those savings to the relative caretakers. The office also provides, upon request, child care, cribs, car seats and any other services the relatives might request. The office policy is to take whatever steps are necessary to ensure the placement is successful.

The projects started in two regional offices in October of 2016, and in two additional offices in October of 2017. The results have been dramatically positive. The average rates for relative placements in the first two offices (Glendora and Santa Fe) are 77% and 84% respectively. Relative placement rates have exceeded 90% during several months. The October, 2017, relative placement rates were 84% for each of these two offices.⁴¹ The offices achieved these results with the addition of only one support staff member. That person, an Adoption Assistant, was added to the Emergency Response section and is dedicated to the Family Finding process.

³⁷ See Cal. Dept. Soc. Services., *What is the Continuum of Care Reform?* (2016), at www.cdss.co.gov/cdssweb/entres/pdf/CCR/WhatIsContinuumCareReform.pdf

³⁸ These guidelines were created by legislation to outline the background checks necessary before placement can be made. A copy of these guidelines is available from the author.

³⁹ Email from Jennifer Lopez, Regional Director. A copy is available from the author.

⁴⁰ It is clear that relatives receiving children need some financial aid. See Rita Price, "Grandparents raising kids of addicts struggle with little aid," *The Columbus Dispatch* January 7, 2018.

⁴¹ Copies of these statistics are available from the author as is the contact information for the two offices. Each office has indicated a willingness to work with other jurisdictions to improve their placement outcomes.

The new offices have also maintained high relative placement rates. In fact, the results of the combined four offices from October 2017 to through April 2018 have averaged 75% children placed with relatives including non-custodial parents and non-relative extended family members. 62% were placed with relatives when not counting placements with the non-custodial parent. Perhaps most importantly, only 25% of children removed from parental custody have been placed with strangers. During the entire project going back to October of 2016, of the almost 1,500 children removed from home, 75% have been placed with relatives. Under the leadership of their new Director, Bobbie Cagle, the Los Angeles Department of Children's Services is poised to move the project to all 20 regions.

Additionally, these pilot projects are also implementing Child and Family Team meetings, a form of family group conferencing.⁴² After the placement has been made, the social worker convenes the family including the relatives who have been contacted and others the family wants to include to make plans for the ongoing care of the child and any contingency plans should a problem arise.

CONCLUSION

For years the author and many juvenile court judges have been frustrated with the inability of children's services agencies to identify, notice, engage, and place children with relatives in a timely fashion. Criminal background checks seemed to take months. Finding fathers was a struggle and some agencies simply did not try to locate unmarried fathers. Searches for relatives often did not start until the father could be located, and many relatives were reluctant to engage in the process during the reunification process, hoping that the custodial parent would succeed in reuniting with the child. The longer the wait, the longer the child remained in foster care. If the child was an infant, the foster parents often became active in trying to keep custody leading to contested trials in the juvenile court.⁴³

There has been little that the judges could do other than urge the agency to use best practices. Judges realized that changes in agency practices were necessary to expedite the relative placement process. The two pilot projects in Los Angeles County and the successes of several other jurisdictions provide a glimpse of what is possible. When other social service agencies around the country learn of these results, hopefully they will modify their practice and place more children with relatives. It is not a matter of inventing new practices. We now know it can be done and it can be done quickly. It will be a matter of determination and will on behalf of social service and child protection agencies across the country whether these new practices are embraced and implemented.

⁴² http://policy.dcss.lacounty.gov/default.htm#Child_and_Family_Teams.htm?Highlight=CFT; State of California, Department of Social Services, All County Letter NO. 18-24, FAMILY FINDING AND ENGAGEMENT (FFE) April 6, 2018.

⁴³ For example, see *In re Sarah H.*, 43 Cal.App.4th 274, 50 Cal.Rptr.2d 503 (1996); *In re M.H.*, 21 Cal.App.5th 1296 (2018)

Now that congregate care has been disfavored by federal and state legislation and foster care continues to be unable to meet the needs of children who must be placed out of home, these new practices offer hope that states across the country can reach a goal of placing these children in a family-like setting, preferably with relatives in a timely fashion. It is a reason for optimism.