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Clerk of the Court
Superior Court of CA County of Santa Clara
BY T. Parker DEPUTY
True Parker

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

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

On March 18, 2020, in response to an order by the County of Santa Clara's Health Officer that residents "Shelter in Place" given the rapid spread of COVID-19 in Santa Clara County, this court issued a temporary emergency standing order requiring court-ordered visitation for dependents to occur via teleconference except in limited circumstances. The court extended and modified that order on April 10, 2020, April 30, 2020, and June 1, 2020 in response to extensions of the "Shelter in Place" order, guidance from the California Department of Social Services, and an evolving scientific understanding of COVID-19. On July 13, 2020, the County shifted away from a "Shelter in Place" strategy in favor of a "Risk Reduction" strategy that allowed for the reopening of many activities given the reduction in spread of COVID-19 at that time. In response, on July 14, 2020, this court rescinded its prior orders and issued a new standing order requiring court-ordered visitation to occur in person unless the participants refused to abide by the county's visitation safety protocols, or the court issued an individual order on the facts of the specific case.

On December 3, 2020, the State issued a new Regional Stay at Home Order that created five Regions within California and imposed tight restrictions on any Region in which Intensive Care Unit (ICU) capacity dropped below 15%. In response to a sharp increase in community transmission and a dramatic decrease in intensive care bed availability, the Bay Area Health Officers, including the County of Santa Clara's Health Officer, implemented the restrictions immediately in order to slow the surge before hospital capacity was overwhelmed. Currently, Santa Clara County has only 9% ICU capacity and is experiencing an average of 1,000 new confirmed cases of COVID-19 daily.

Each week, to meet court-ordered visitation obligations and to maintain familial ties, County staff and contractors supervise approximately 400 dependency court-ordered visits between parents and their children. The County's Health Officers advise that conducting visitation without appropriate infection prevention protocols in place could put all participants at a high risk for transmission of COVID-19, due to the manner and duration of the visits. The risk is further compounded by the ancillary contacts associated with visitation, including required transportation, supervision, and an inability to practice social distancing in small rooms.

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 significant risk of activities that are likely to increase the transmission of COVID-19.

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

1. The order dated July 14, 2020 entitled "Temporary Order Requiring Compliance with Safety Protocols During Dependency Court-Ordered Visitation" is hereby rescinded.
2. Except as outlined in items 6, 7, and 8 below, visitation ordered by dependency court judges for all dependency court cases will be made available via videoconferencing. In instances where the parent or caregiver lacks necessary equipment, DFCS shall provide resources to bridge the technology gap, and document its efforts in this regard in its reports to the court. DFCS will offer remote visitation at a frequency in excess of the current court-ordered minimum, 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 via videoconference.
3. Where the child is in a confidential placement, DFCS will work with the caregiver and the parent to ensure confidentiality is preserved during videoconference visitation.
4. 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.
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 and in other appropriate cases.

6. Notwithstanding the above, in-person visitation shall occur if DFCS determines that visits can be safely and appropriately accomplished outdoors or in an available large room with the appropriate ventilation. DFCS shall endeavor to locate and provide appropriate locations where socially distanced visitation can safely occur, but the court recognizes that videoconference visitation may be more clinically appropriate than socially distanced visitation for some children. DFCS shall prioritize children under the age of three pending disposition, and children under the age of three with a parent actively participating in court-ordered family reunification services.

7. Unsupervised visitation or visitation supervised by natural supports in the community may continue to occur in person as long as such visitation is held outdoors or in an available large room with the appropriate ventilation, except that any overnight visitation may continue to be held indoors.

8. DFCS shall provide education for all staff members and contractors supervising visitation about the greater safety of holding visitation in outdoor spaces due to increased ventilation and airflow. In addition, DFCS shall educate all participants in in-person dependency court-ordered visitation about the importance of wearing face coverings throughout a visit and generally whenever they leave their homes, in accordance with State and County Health Officer COVID-19 requirements; staying away from gatherings and other risky activities; maintaining at least 6 feet of social distancing from people they do not live with, including during visits; and self-monitoring for possible COVID-19 symptoms.

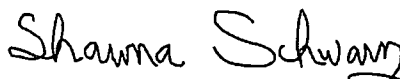
9. Participants in in-person dependency court-ordered visitation must comply with all DFCS safety policies and public health orders and guidance, including but not limited to wearing face coverings, maintaining social distancing whenever possible, and answering health screening questions to lower the risk of attending a visit while infected with COVID-19. If a parent refuses to wear a face covering, refuses to answer COVID-19 screening questions, or otherwise refuses to comply with DFCS or public health written health and safety protocols, the visit shall not be held in person.

10. Any party may bring an ex-parte request to the court to deviate from the rules set herein to allow or disallow in-person visitation based on the facts of the particular case, including the child's particular emotional needs, or specific medical vulnerabilities of the child or members of the child's household. The court shall schedule the matter for a hearing at its earliest convenience after receiving such a request.

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

Dec. 18, 2020

Date



The Honorable Shawna Schwarz
Supervising Judge of Juvenile Dependency Court