
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 651 **Hearing Date:** July 1, 2025
Author: Bryan
Version: April 9, 2025
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juveniles: dependency: incarcerated parent*

HISTORY

Source: Dependency Legal Services
Families Inspiring Reentry and Reunification 4 Everyone
Legal Services for Prisoners with Children
Los Angeles Dependency Lawyers

Prior Legislation: SB 962 (Liu), Ch. 482, Stats. of 2010

Support: ACLU California Action; All of Us or None Orange County; California Alliance of Child and Family Services; Disability Rights California; Ella Baker Center for Human Rights; Riverside All of Us or None; Starting Over

Opposition: None known

Assembly Floor Vote: 79 - 0

PURPOSE

The purpose of this bill is to require notice and the opportunity for an incarcerated parent to be physically present at specified dependency hearings related to their child, or the opportunity to participate in those proceedings by videoconference or teleconference when their physical presence is waived.

Existing law requires notice to a “prisoner” in a proceeding seeking to terminate the parental rights of the person, or a proceeding seeking to adjudicate the child of a prisoner a dependent child of the court. (Pen. Code, § 2625, subd. (b).)

Existing law defines “prisoner” to include any individual in custody in a state prison, the California Rehabilitation Center, or a county jail, or who is a ward of a juvenile facility, or who, upon a verdict or finding that the individual was insane at the time of the commitment offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of persons with mental health disorders or in any other public or private treatment facility. (Pen. Code, § 2625, subd. (a).)

Existing law requires the court, upon receipt of a statement from the prisoner or the prisoner’s attorney indicating the prisoner’s desire to be present during the court’s proceedings, to issue an

order for the temporary removal of the prisoner from the institution, and for the prisoner's production before the court. (Pen. Code, § 2625, subd. (d).)

Existing law prohibits specified proceedings seeking to terminate the parental rights of a prisoner, or proceedings seeking to adjudicate the child of a prisoner a dependent child from being held without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner, or an affidavit signed by the warden, superintendent, or other person in charge of the institution stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding. (Pen. Code, § 2625, subd. (d).)

Existing law authorizes the court, in any other action or proceeding or action adjudicating the prisoner's parental rights, to issue an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court. (Pen. Code, § 2625, subd. (e).)

Existing law authorizes a prisoner who is a parent of a child involved in a dependency hearing and who has either waived the right to physical presence at the hearing or who has not been ordered before the court to be given the opportunity to participate in the hearing by videoconference, at the court's discretion, if that technology is available and if participation otherwise complies with the law. Authorizes teleconferencing to be utilized if videoconferencing technology is not available. Specifies that these provisions do not authorize the use of videoconference or teleconference to replace in-person family visits with prisoners. (Pen. Code, § 2625, subd. (g).)

Existing law establishes the juvenile court with jurisdiction over children who are subject to abuse or neglect. (Welf. & Inst. Code, § 300.)

Existing law states that the purpose of the juvenile court dependency system is to provide maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that the focus is on the preservation of the family, as well as the safety, protection, and physical and emotional well-being of the child. (Welf. & Inst. Code, § 300.2, subd. (a).)

Existing law provides that a minor who is the subject of a juvenile court hearing, and any person entitled to notice of the hearing, is entitled to be present at the hearing. (Welf. & Inst. Code, § 349, subd. (a).)

Existing law requires the court, if the minor is present at the hearing, to inform the minor that he or she has the right to address the court and participate in the hearing. Requires the court to allow the minor, if the minor so desires, to address the court and participate in the hearing. (Welf. & Inst. Code, § 349, subd. (c).)

This bill adds the following proceedings to those that require notice and opportunity for an incarcerated parent to be physically present, or the opportunity to participate in those proceedings by videoconference or teleconference:

- Proceedings related to changing, modifying, or setting aside any order of court previously made or to terminating the jurisdiction of the court when the incarcerated parent is the petitioner;

- Hearings related to limitations on parent or guardian control and appointment of another adult to make educational or developmental services decisions;
- Hearings on dependency status review;
- Hearings on permanency review following continuance;
- Any subsequent permanency review hearings; and,
- Any hearing at which parentage of a child of the incarcerated person is to be determined.

This bill requires an incarcerated person who is a parent of a child involved in a dependency hearing and who has either waived the right to physical presence at the hearing or who has not been ordered before the court to be given the opportunity to participate in the hearing by videoconference if that technology is available and if participation otherwise complies with the law. Requires teleconferencing to be utilized if videoconferencing technology is not available.

This bill provides that anyone who is entitled to notice of initial petition hearings, dependency status review hearings, and permanency review hearings is entitled to be present at the hearing in addition to the minor or nonminor dependent who is the subject of the juvenile hearing.

This bill makes other technical and conforming changes.

COMMENTS

1. Need For This Bill

According to the author:

AB 651 is a common sense measure that would ensure that incarcerated parents are notified of and allowed to participate in their children's dependency hearings remotely. Current law requires parents to be produced in-person for specified dependency hearings, but appearing in person is an onerous process if a parent is incarcerated in a county that is different from the county that has jurisdiction over their child. By allowing incarcerated parents the option for remote participation, we can ensure better outcomes for our foster youth and provide families with a better chance for safely reunifying after a parent's incarceration period is over.

2. Dependency Proceedings

California's child welfare services system was established to provide safety and protection to children from abuse, neglect, and exploitation. Reports of child abuse or neglect can be made to law enforcement or a county child welfare agency, and are often submitted by mandated reporters who are legally required to report suspected child abuse or neglect. When a report of suspected child abuse or neglect is made, a preliminary investigation is made to determine whether or not any action should be taken. If the social workers determines that court involvement is necessary, the child welfare agency files a petition with the juvenile court to make the child a dependent of the court. The child may remain in the custody of the parent or guardian, or may be removed from the physical custody of the parent or guardian if it is believed that the child is in immediate danger.

At the subsequent court hearing, the court may elect to keep the child in, or return the child to, their home or remove the child from the home. Removal may either result in eventual reunification with the family, or the court may determine that an alternate permanent placement, including guardianship or adoption, is appropriate. When reunification is not possible or appropriate, the child is placed in the setting deemed least restrictive and most suitable, and the court is required to give preference to potential placements with relatives or nonrelative extended family members. Throughout this process, there are multiple court hearings, including the detention hearing, the jurisdictional hearing, the dispositional hearing, review hearings, and the permanency hearing, where the custody of a child or their placement is evaluated, reviewed, and determined by the court, in consultation with the child's social worker appointed by the county and the child's attorney, to help provide the best possible support and services to the child.

Existing law requires that the court provide incarcerated parents with notice of, and opportunity to be physically present in proceedings on the initial hearing to adjudicate their child as a ward of the court and for the hearing on permanency. Existing law requires the court, upon receipt of notice that the incarcerated parent would like to participate in the hearing, to issue an order for the temporary removal of the incarcerated person from the institution and for the incarcerated person's production before the court. The court may not hold those proceedings without the physical presence of the incarcerated parent or their attorney unless the court has either a waiver of the right of physical presence signed by the incarcerated parent or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or a designated representative stating that the incarcerated person has, by express statement or action, indicated an intent not to appear at the proceeding. An incarcerated parent who has waived the right to be in person or who has not been ordered before the court may, at the court's discretion, be given the opportunity to participate by videoconference, and if that technology is not available, teleconferencing may be utilized. Existing law recognizes the significance of dependency court hearings for parental rights and children's long-term care, and states that physical attendance by the parent at the hearings is preferred to participation by videoconference or teleconference.

The sponsors of this bill contend that for parents who are incarcerated in a different county than where the proceedings involving their child are taking place, those parents often are not given the option to be physically present during the proceedings, either because notice is not given or because the jail administrator refuses to produce the incarcerated parent to another county. This bill requires notice of, and the opportunity to be physically present at review hearings for the adjudication of the incarcerated parent's child and review hearings on permanency. This bill also requires, rather than allows, a judge to order an opportunity for the incarcerated parent who has either waived physical presence or has not been ordered to come before the court, to participate via videoconference. If videoconference is not available, the bill requires participation by teleconference. The videoconference requirement in the bill ensures that if the incarcerated parent cannot be transferred, there is still a meaningful opportunity to participate in these hearings.

3. Argument in Support

ACLU California Action writes:

An estimated 15% to 20% of children in the family regulation system have an incarcerated parent. Early and frequent inclusion of parents in court proceedings, including incarcerated parents, results in better outcomes for children. ...

Moreover, California's appellate courts have long held that there is no "go to jail, lose your child" rule in California. Parental incarceration is not, standing alone, grounds for dependency jurisdiction and when jurisdiction is warranted, there is a clear presumption in favor of ordering reunification for an incarcerated parent. When incarcerated parents are included in legal hearings throughout the life of a dependency case, particularly during the critical stage of reunification, they are better able to alert the court and counsel of any deficiencies in case plan services and visitation, provide updates regarding their custodial status, and receive information regarding the legal posture of their dependency case. This safeguards not only the rights of the parent, but also the corresponding right of the child to maintain a relationship with their parent and ultimately be reunified if it is safe and appropriate.

The current provision for the participation of incarcerated parents in juvenile dependency cases in Penal Code Section 2625 requires in-person production of any parent in state prison or county jail only for Welfare and Institutions Code (WIC) 366.26 termination of parental rights hearings and most adjudications, and allows for remote appearance only at the court's discretion. However, caselaw has noted the notorious difficulty in producing incarcerated parents for their hearings and the impact it has on courts' ability to adhere to statutory timeline mandates.

Parents in out-of-county local custody are almost never able to participate in hearings. Further, parents in state prison may give up their right to be present, as being transported for court requires temporary housing in county jail and can result in removal from coveted rehabilitation programs and disrupt good time calculations.

This bill makes two important changes to the current law. First, it requires that the court order remote participation when in-person appearance is not possible or waived for WIC 366.26 permanency hearings and adjudication. ... Second, the bill expands the hearings for which remote appearance must be made available for parents who are incarcerated, including disposition, statutory review, paternity, and Welfare and Institutions Code 388 petitions. It is vital for parents and children to be involved at all stages of the proceedings, not just the beginning and the end.

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