

# AB 1332 (Bloom)

## Juveniles – Non-Custodial Parent Orders Clarification Fact Sheet

### PURPOSE

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To provide a needed legislative solution to give dependency courts the ability to protect the well-being of a child by applying equivalent statutory provisions for physical removal of a child from both offending custodial and non-custodial parents.

termination of parental rights to free the child for adoption. Current law allows even an abusive or negligent non-custodial parent to avoid a detriment finding despite receiving proper notice of the proceedings thus preventing permanence for a child.

### SUMMARY

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AB 1332 would amend the Welfare and Institutions Code to provide statutory guidance to:

- remove physical custodial rights from an offending parent who is not a primary custodial caregiver of a child at the time the dependency petition is initiated

### BACKGROUND

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At least one recent Court of Appeals decision has overturned dependency court removal orders from a non-custodial parent based on the existing statutory language which only permits removal from a parent with whom the child resides at the time the dependency petition is initiated. (WIC section 361, subd. (c).) On September 1, 2016, Juvenile Court Judge Frank J. Menetrez published an article in the Los Angeles Daily Journal highlighting the need for statutory changes for courts to protect a child's wellbeing regardless of a parent's custodial status

### EXISTING LAW

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Under current law, dependency courts do not have clear statutory guidance on how to remove a child from an abusive parent with whom the child does not reside at the time the dependency petition is initiated. WIC section 361.2 only allows the juvenile court to make a "detriment" finding by clear and convincing evidence regarding a non-custodial parent if that non-custodial parent requests custody of the child. Such a finding of detriment or "unfitness" is a necessary predicate should parents fail to reunify and the court then determine that adoption is the most appropriate permanent plan for a child which, necessitates the

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### SUPPORT

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None on file.

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