

[Note: This model motion is intended to help you convince your trial judge to order the child protective agency to place separated siblings together. While the model focuses on foster placements, with some edits it can be used to obtain an order for siblings to be placed together in a guardianship or other custodial arrangement. We have a different model motion seeking an order for frequent sibling visits, and you may wish to combine the two motions. The moving parties in this model are the separated siblings themselves. You can file a motion for sibling joint placement even if you only represent one sibling, but, ideally, all siblings would be joint movants or otherwise clearly supporting the motion. In some states, you may be able to file a motion like this if you represent the parent.]

You must fill in your own facts, which should ideally show that the siblings had lived together prior to placement, have a close relationship, ask for each other, and exhibit some signs of wanting to live together. But don't worry if you don't have all of these good facts. While this model motion has content regarding federal law and clinical studies showing that siblings are best served by joint placement, the most important part of this motion requires you to fill in the governing state statutes, case law, and/or agency regulations on sibling placement. That is, regardless of what the literature here says, trial judges will usually do what they think they have to do under the governing state law and regulations.

This model motion is provided for your information only and should not be considered legal advice.]

IMPOUNDED

[State trial court, county, etc.]

Docket No. _____

In Re:)
[Care and Protection/Matter] of)
Smith Children)
_____)

MOTION TO ORDER [STATE AGENCY] TO PLACE SIBLINGS TOGETHER

Sarah Smith and John Smith, the children in this matter (“Children”), are in [state agency’s] legal custody, are placed in separate foster homes, and currently only see each other [_____]. The Children move that this Court order [state agency] to place them together in the same foster home. The Children [lived together before placement and constantly tell the foster parents/the undersigned counsel that they wish to live together]; they should not have to suffer unnecessarily by being separated just because [state agency] filed the underlying petition. As

required by [governing state statute/case law/regulation], the facts of this case show that joint placement serves the Children’s best interests. Further, the most current clinical studies about sibling foster care placements clearly show that siblings’ best interests are served, and the trauma of removal from home is mediated, by joint placement in foster care.

Background

[Insert your succinct procedural history and facts here. Include facts that show (to the extent possible) that the siblings lived together pre-removal, have a relationship, ask for each other, and enjoy/benefit from contact with each other, and that the agency has ignored your requests or refuses to place them together.]

Discussion

I. The Children should be placed together under [state statute/regulation/case] because joint placement serves their best interests.

[Insert your governing state statutes/cases/regulations on sibling joint placement here]

II. Federal statutes require efforts to place siblings together and maintain sibling connections.

The Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351 (“Foster Connections Act”), mandates that states make “reasonable efforts” to maintain sibling connections in order to receive federal funding. The Fostering Connections Act specifically requires states to make reasonable efforts “to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings.” Because joint placement serves the siblings’ best interests here, [the agency’s] reasonable efforts requirement mandates that they be placed together.

Similarly, the Family First Prevention Services Act of 2018, Public Law 115-123 (“Family First Act”), shows the Legislature’s intent to prioritize sibling relationships in care. The

Family First Act allows the number of foster children in one home to exceed the usual numerical limitation in order to allow siblings to remain together. *Id.* Accordingly, under federal law and public policy, these siblings must be placed together.

III. Clinical studies show that children’s best interests are served by placing siblings together while in foster care.

This Court’s best interests determination should be guided by the relevant clinical literature. Studies show that placing siblings together in foster care reduces children’s trauma after removal, improves children’s mental health, increases placement stability, and improves educational, financial, and other outcomes.

A. Joint placement of siblings reduces trauma and benefits foster children’s mental health.

Separating siblings is, itself, a traumatic victimization of foster children. *See* Adam McCormick, *Siblings in Foster Care: An Overview of Research, Policy, and Practice*, 4 J. of Pub. Child Welfare 198, 207 (2010) (“Separating siblings who have been removed from their parents only seems to intensify the pain, grief, and trauma that they have already experienced when they were initially removed from their parents.”); Deborah Silverstein & Susan Livingston Smith, *Siblings in Adoption and Foster Care: Traumatic Separations and Honored Connections*, 20 (2008) (noting that foster youth describe separation from siblings as being “like an extra punishment, a separate loss, and another pain that is not needed.”). Joint placement prevents the “irreparable harm” that separation from siblings causes. *See* Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. Rev. L. & Soc. Change 523, 526 (2019) (finding that placing children together prevents the damage that separation has on “a child’s brain architecture and affect[s] his or her short- and long-term health”).

Placing siblings together in foster care helps compensate for the negative effects of parental loss, reduces their anxiety and depression, and improves their self-esteem. See Jonathan Caspi, *Sibling Development: Implications for Mental Health Practitioners* 322 (Springer Pub. 2011); Sabrina M. Richardson & Tuppert Yates, *Siblings in Foster Care: A Relational Path to Resilience for Emancipated Foster Youth*, 47 *Child. & Youth Svcs. Rev.* 378, 379 (2014) (finding “presence of a sibling is typically associated with better proximal outcomes in foster care . . . [such as] fewer symptoms of anxiety and depression.”); Rebecca L. Hegar, *Kinship Care and Sibling Placement: Child Behavior, Family Relationships, and School Outcomes*, 31 *Child. & Youth Svcs. Rev.* 670, 676 (2009) (finding that placement “with a sibling was significantly related to lower levels of internalizing problems (e.g., depression, self-blame),” and that children “who are placed with one or more siblings are significantly more likely than others to feel emotionally supported, to feel close to a primary caregiver . . . and to like living with the people in the home.”); Susan L. Smith, *Siblings in Foster Care and Adoption: What We Know from Research*, in Deborah N. Silverstein & Susan L. Smith, Eds., *Siblings in Adoption and Foster Care: Traumatic Separations and Honored Connections* (Praeger Pub. 2009) (finding that being placed with their siblings “promotes a sense of safety and well-being, while being separated from them can trigger grief and anxiety.”).

The value of maintaining sibling relationships may be even more important for children within marginalized communities where joint placements provide racial, ethnic, and cultural connections. See Caspi, *Sibling Development*, at 322 (after removal from parents, “[s]ibling relations may be of special importance to children from minority populations in preserving their ethnic identity, particularly children placed in families or communities that differ considerably from their own heritage.”); Silverstein & Smith, *Siblings in Foster Care and Adoption*

("[C]ontinuity of sibling relationships through conjoint placements helps children to maintain a positive sense of identity and knowledge of their cultural, personal, and family histories.").

B. Joint placement of siblings decreases placement disruption because it increases the chances of reunification and adoption.

Sibling co-placement decreases placement disruption and exerts significant and positive influence on children's functioning, which in turn increases the chances of stable permanent placements. See Becci A. Akin, *Predictors of Foster Care Exits to Permanency: A Competing Risks Analysis of Reunification, Guardianship, and Adoption*, 33 Child. & Youth Svcs. Rev. 999, 1009 (2011) ("Sibling placements were beneficial to permanency when all siblings in placement were kept together consistently and continuously throughout an entire placement episode."); Nancy Rolock & Kevin White, *Post-Permanency Discontinuity: A Longitudinal Examination of Outcomes for Foster Youth after Adoption or Guardianship*, 70 Child. & Youth Svcs. Rev. 419, 425 (2016) ("Children placed with at least one sibling at the time of legal permanence had about 15% lower hazard of experiencing discontinuity as compared to those not placed with at least one sibling."). On the other hand, children separated from their siblings had more placement changes. See Sarah A. Font & Hyunn Woo Kim, *Sibling Separation and Placement Instability for Children in Foster Care*, 27(4) Child Maltreatment 583, 583 (April 2021).

Because joint sibling placement is stabilizing for children, maintaining the sibling relationship accelerates parental reunification. See Vicky Albert & William King, *Survival Analyses of the Dynamics of Sibling Experiences in Foster Care*, 89 Families in Society 533 (2008); Sigrid James, et al., *Maintaining Sibling Relationships for Children in Foster and Adoptive Placements*, 30 Child. & Youth Svcs. Rev. 90 (2008) (identifying sibling relationship as key factor in sustaining "family cohesiveness when working towards reunification").

That stability helps in other ways; joint sibling placement also leads to higher rates of adoption. *See Akin, Predictors of Foster Care Exits to Permanency*, at 72-73 (“[C]hildren that experienced completely intact sibling placements were the most likely to exit to adoption (19.0%), followed by children that experienced partially intact placements (12.9%). . . . [T]he lowest rate of adoption occurred for children who were completely separated from their siblings with concurrent foster care episodes (8.1%).”); Silverstein & Smith, *Siblings in Foster Care and Adoption*, at 21-22 (“A study of over 10,000 children photo-listed for adoption in New York found that members of sibling groups were more likely to be adopted and were placed more quickly than single children. In fact, the time to adoption was decreased by 3.2 months for each additional child in the sibling group.”).

C. Placing siblings together in care also improves children’s educational outcomes, adult social skills, and financial outcomes.

Joint sibling placement improves children’s school performance, *see* Rebecca L. Hegar & James A. Rosenthal, *Foster Children Placed with or Separated from Siblings: Outcomes Based on a National Sample*, 33 *Child. & Youth Svcs. Rev.* 1245, 1251 (2011) (“Children placed with all of their siblings perform better in school than do those who have been splintered or split from siblings.”); Richardson & Yates, 47 *Child. & Youth Svcs. Rev.* at 383 (“The proportion of time in care spent with one or more siblings [i]s associated with higher levels of educational competence.”), and reduces behavioral problems at school and any accompanying discipline events. *See* Hegar & Rosenthal, 33 *Child. & Youth Svcs. Rev.* at 1251 (“[T]eachers report fewer problems for siblings placed together than for those split from siblings.”); Brianne Kothari et al., *A Longitudinal Analysis of School Discipline Events Among Youth in Foster Care*, 93

Child. & Youth Svcs. Rev. 117 (2018) (“[L]iving apart from one's sibling increased the odds of youth experiencing school discipline events by [greater than] 65%.”).

Joint sibling placement improves children’s long-term social skills and adulthood competencies. See Lew Bank et al., *Intervening to Improve Outcomes for Siblings in Foster Care: Conceptual, Substantive, and Methodological Dimensions of a Prevention Science Framework*, 39 Child. & Youth Svcs. Rev. 8 (2014). It also correlates to better long-term, adulthood financial circumstances. See Richardson & Yates, 47 Child. & Youth Svcs. Rev. 378, 380 (2014) (finding positive relationship between sibling co-placements and later “housing quality [and] occupational competence.”).

Conclusion

The Children in this case should be placed together in their best interests, as required under state law, federal law, and current social science/best practices. If [state agency] is allowed to erode the Children’s sibling relationship, the Children will unnecessarily suffer additional trauma and long-term adverse mental and behavioral health, as well as poorer educational, financial, and other outcomes as they reach adulthood.

WHEREFORE, the Children request that this Court order:

- (a) that [state agency] place the Children together;
- (b) Such other and further relief as is just and proper.

Dated: July __, 2023

Sarah and John Smith (the Children)
By their counsel,

[Attorney information]