JURISDICTION

Generally
300(a) Serious Physical Harm
300(b) Failure to Protect
300(c) Emotional Abuse
300(d) Sexual Abuse
300(e) Severe Abuse of Toddler
300(f) Death of Child
300(g) Abandonment
300(h) Relinquishment
300(i) Cruelty
300(j) Sibling Abused
UCCJA

GENERALLY:

A child must be at risk of harm during the jurisdictional hearing for the court to sustain the petition. (*In re Christopher M.* (2014) 228 Cal.App.4th 1310, 1318-1320 [insufficient evidence under subds. (b) & (g) that father's whereabouts were unknown and could not provide for the minor when he was released by the time of the hearing, was employed, and requested placement]; *In re Kaylee H.* (2012) 205 Cal.App.4th 92, 105-107 [thus, the court shall not assume jurisdiction if a guardianship petition would have protected the minor]; *In re J.N.* (2010) 181 Cal.App.4th 1010, 1023-1025 [noting a conflict of authority]; *In re James R.* (2009) 176 Cal.App.4th 129, 135-136; *In re Ricardo L.* (2003) 109 Cal.App.4th 552, 566-567; *In re Janet T.* (2001) 93 Cal.App.4th 377, 391 [at the dispositional hearing]; *In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1134; *In re Rubisela E.* (2000) 85 Cal.App.4th 177, 197-198, disapproved on other grounds in *In re I.J.* (2013) 56 Cal.4th 766, 781-782; *In re Jasmine G.* (2000) 82 Cal.App.4th 282, 289-290; *In re Alysha S.* (1996) 51 Cal.App.4th 393, 398; *In re Alexander K.* (1993) 14 Cal.App.4th 549, 558-559; *In re Rocco M.* (1992) 1 Cal.App.4th 814, 821-824; *In re Aaron S.* (1991) 228 Cal.App.3d 202, 207-210; *In re Jennifer P.* (1985) 174 Cal.App.3d 322; *In re Eric B.* (1987) 189 Cal.App.3d 996, 1002-1003 [minor need not suffer actual harm]; contra *In re Ethan C.* (2012) 54 Cal.4th 610, 637-639 [death of child under subd. (f)]; *In re A.M.* (2010) 187 Cal.App.4th 1380, 1389 [death of child under subd. (f)]; *In re Y.G.* (2009) 175 Cal.App.4th 109, 114-116 [parent harmed an unrelated child before]; *In re J.K.* (2009) 174 Cal.App.4th 1426, 1426, 1434-1439; *In re Carlos T.* (2009) 174 Cal.App.4th 795, 803-805 [the court can assume jurisdiction under subdivision (d) if the minor was sexually abused, even if there is not a current risk]; *In re David H.* (2008) 165 Cal.App.4th 1626, 1644.) The agency "has the burden of showing specifically how [the minor has] been or will be harmed." (*In re Matthew S.* (1996) 41 Cal.App.4th 1311,

1318.) "While evidence of past conduct may be probative of current conditions, the question under section 300 is whether circumstances at the time of the hearing subject the minor to the defined risk of harm." (*In re Rocco M.* (1992) 1 Cal.App.4th 814, 824, italics omitted.)

Jurisdiction cannot be supported on appeal on grounds the court found not true. (*In re S.D.* (2002) 99 Cal.App.4th 1068, 1083.)

The court can consider allegations of conduct occurring in other counties. (*In re Hadley B.* (2007) 148 Cal.App.4th 1041, 1048-1050.)

A court may assume jurisdiction if the child is at risk of harm, notwithstanding the lack of fault of a parent. (*In re A.S.* (2009) 180 Cal.App.4th 351, 360-362; *In re Alexis H.* (2005) 132 Cal.App.4th 11, 16; *In re Joshua G.* (2005) 129 Cal.App.4th 189, 202 [the petition need not allege anything against the other parent]; *In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1135 ["a finding against one parent is a finding against both in terms of the child being adjudged a dependent"]; *In re Alysha S.* (1996) 51 Cal.App.4th 393, 397; *In re Joshua H.* (1993) 13 Cal.App.4th 1718; *In re Jeffrey P.* (1990) 218 Cal.App.3d 1548, 1553-1554 [allegations against one parent alone is sufficient for the court to assume jurisdiction]; *In re La Shonda B.* (1979) 95 Cal.App.3d 593, 600 [same]; see *In re A.S.* (2011) 202 Cal.App.4th 237, 244-246 [jurisdiction under subd. (b) for physical abuse though it could not be identified which parent inflicted it].)

The court cannot assume jurisdiction when a fit parent wanted custody of the child from relatives seeking guardianship on the ground that moving the child would be detrimental. (*In re V.M.* (2010) 191 Cal.App.4th 245, 247-253.)

But the court cannot terminate parental rights when it made no finding that one of the parents was unfit. (*In re Gladys L.* (2006) 141 Cal.App.4th 845, 847, 848.)

Jurisdiction due to abuse of a "sibling" includes a niece or nephew in the parent's care. (*In re Marquis H.* (2013) 212 Cal.App.4th 718, 724-726.)

"The court should examine each factual situation to determine what type of detriment might result and not impose its set of values as to what constitutes a 'good home environment' on a family who may not subscribe to those same values. There is no national consensus on how to raise a 'healthy' adult, and a juvenile court should examine the question of parental custody from the child's view point." (*In re Jamie M.* (1982) 134 Cal.App.3d 530, 541

There was insufficient evidence in a case despite evidence in social worker report that parent suffered from drug use when found passed out under the influence because *subsequent investigation* shows clean urine test and parent may have suffered from bad reaction from prescription psychotropic medication. (*Kimberly R. v. Superior Court* (2002) 96 Cal.App.4th 1067, 1079.)

The court cannot assume jurisdiction over a minor when his whereabouts were unknown. (*In re Baby Boy M.* (2006) 141 Cal.App.4th 588, 601-602.)

The court cannot find jurisdiction based on a default judgment. (*In re Nemis M.* (1996) 50 Cal.App.4th 1344, 1352; *In re Brian W.* (1996) 48 Cal.App.4th 429, 433; *In re Dolly D.* (1995) 41 Cal.App.4th 440, 446.)

The court need not advise a parent that the social worker recommends bypass before accepting a submission on the social worker report at the jurisdictional hearing. (*In re S.G.* (2003) 112 Cal.App.4th 1254, 1259.)

A parent does not have standing to present evidence against the other parent in a jurisdictional hearing. (*In re Eric H.* (1997) 54 Cal.App.4th 955, 969.)

Under Welfare and Institutions Code section 350, subdivision (c), the court has the power to dismiss the petition after the Department presents its case upon a motion by the parents. The court may weigh conflicts in the evidence. (*In re Roberto C.* (2012) 209 Cal.App.4th 1241, 1251-1253.)

Standard of Review: Review the court's order under section 350, subdivision (c) for substantial evidence. (*In re Roberto C.* (2012) 209 Cal.App.4th 1241, 1254.)

The court is required to advise parents before they admit the petition under California Rules of Court, and the requirements are similar to a *Boykin-Tahl* advisement. Thus, a court can look at criminal cases for guidance, but this is not a constitutional rule. (*In re Patricia T.* (2001) 81 Cal.App.4th 400, 404.)

Demurrer or attack on the sufficiency of the pleading fails if there is "at least one ground of juvenile ground jurisdiction" sufficiently pled. (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 400.) Demurrer procedures found in Part 3 of Code of Civil Procedure does not apply to dependencies. (*In re David H.* (2008) 165 Cal.App.4th 1626, 1639-1640.)

The court cannot assume jurisdiction over a fetus. (*In re Steven S.* (1981) 126 Cal.App.3d 23.)

"The family court, rather than the juvenile court, is the proper forum for adjudicating child custody disputes." (*In re Alexander M.* (2007) 156 Cal.App.4th 1088, 1096.)

A court lacks fundamental jurisdiction to order medical treatment for a minor without sustaining a petition for jurisdiction. (*San Joaquin Cnty. Human Servs. Agency v. Marcos W.* (2010) 185 Cal.App.4th 182, 187-192.)

Welfare and Institutions Code section 331 requires CPS to file a petition upon a court order. (*In re M.C.* (2011) 199 Cal.App.4th 784, 804-807; see *In re Kaylee H.* (2012) 205 Cal.App.4th 92, 102-104.)

Appealability: The court's order denying a private person's request that a dependency petition be filed is not appealable. (*In re Michael H.* (2014) 229 Cal.App.4th 1366, 1375.)

The court must dismiss the dependency at the dispositional hearing if the minor marries after the filing of the petition. (*In re J.S.* (2011) 199 Cal.App.4th 1291, 1295.)

Standing: Parent does not have standing to contest dismissal of allegations against the other parent. (*In re Carissa G.* (1999) 76 Cal.App.4th 731, 736; *In re Tomi C.* (1990) 218 Cal.App.3d 694, 698; contra *In re Lauren P.* (1996) 44 Cal.App.4th 763, 770-771; see *In re Patricia T.* (2001) 81 Cal.App.4th 400, 407 [admission of petition waives issue].)

Waiver: Father denied he molested the child at the contested jurisdictional hearing and appealed the dispositional order. At the Six Month Review Hearing, he stipulated that "conditions still exist which would justify the initial assumption of jurisdiction." The Court of Appeal held this agreed to the finding of jurisdiction and made the appeal moot. (*In re Eric A.* (1999) 73 Cal.App.4th 1390, 1394.)

Waiver: Failure to demur is frequently found to waive the claim the petition did not state a cause of action. (*In re Christopher C.* (2010) 182 Cal.App.4th 73, 82-83; *In re David H.* (2008) 165 Cal.App.4th 1626, 1637-1640 [noting a split of authority, deciding it is a waiver]; *In re James C.* (2002) 104 Cal.App.4th 470, 481 [noting a split of authority, deciding it is a waiver]; *In re Athena P.* (2002) 103 Cal.App.4th 617, 627-628 [not because issue waived but because issue was harmless; but can still contest sufficiency of the evidence]; *In re S. O.* (2002) 103 Cal.App.4th 453, 459; *In re Jessica C.* (2001) 93 Cal.App.4th 1027, 1037; *In re Shelly J.* (1999) 68 Cal.App.4th 322, 328; see *In re Janet T.* (2001) 93 Cal.App.4th 377, 386, fn. 4 [pretrial objection preserved issue]; but see *In re S.D.* (2002) 99 Cal.App.4th 1068, 1080 [through IAC]; *In re Alysha S.* (1996) 51

Cal.App.4th 393, 397; *In re Miguel E.* (2004) 120 Cal.App.4th 521, 543 [not objecting to amending the petition did not waive claim it did not state a cause of action].)

" '[I]f the jurisdictional findings are supported by substantial evidence, the adequacy of the petition is irrelevant.' [Citation.]" ([*In re*] *N.M.* [(2011) 197 Cal.App.4th 159,] 166, fn. omitted; accord, *In re A.R.* (2014) 228 Cal.App.4th 1146, 1153.) "The only exception occurs when a parent claims a petition fails to provide actual notice of the factual allegations. Unless the alleged factual deficiencies result in a miscarriage of justice, the reversal of a jurisdictional order supported by substantial evidence is unwarranted." (*In re Javier G.* (2006) 137 Cal.App.4th 453, 458-459, accord, *In re John M.* (2012) 212 Cal.App.4th 1117, 123.)

Waiver: Admitting or pleading no contest to the petition forfeits a claim of insufficient evidence. (*In re N.M.* (2011) 197 Cal.App.4th 159, 166-168.) Agreeing that there is sufficient grounds for jurisdiction due to the allegations against the father does not waive a challenge of sufficient evidence against the mother. (*In re Isabella A.* (2014) 226 Cal.App.4th 128, 136-137.)

Waiver: Submitting on the social worker's *recommendation* waived any claim of insufficiency of the evidence for jurisdiction or removal. (*In re Richard K.* (1994) 25 Cal.App.4th 580, 590.)

Waiver: Submitting on the social worker's *report* does *not* waive claim of insufficiency of evidence on appeal. (*In re Miguel E.* (2004) 120 Cal.App.4th 521, 543; *In re Tommy E.* (1992) 7 Cal.App.4th 1234, 1237; see *In re Ricardo L.* (2003) 109 Cal.App.4th 552, 565 ["submit on the jurisdiction" in context means submit on the report]; but see *In re N.M.* (2011) 197 Cal.App.4th 159, 166-168 [submitting on the social worker as part of a bargain to dismiss other allegations forfeits a claim of insufficient evidence]; *Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798, 812 [submission on the report prevents any claims that the adopted recommendations were improper if they were supported by substantial evidence].)

"Generally, issues not raised in the trial court cannot be raised on appeal. 'The contention that a judgment is not supported by substantial evidence, however, is an obvious exception to the rule.' (*Tahoe National Bank v. Philips* (191) 4 Cal.3d 11, 23, fn. 17.) In other words, when the merits of a case are contested, a parent is not required to object to the agency's failure to carry its burden of proof. [Citations.]" (*In re Javier G.* (2006) 137 Cal.App.4th 453, 464 [including submissions to the social worker report].)

Waiver: Failure to advise of consequences of submitting on the social worker report waived without an objection. (*In re S.G.* (2003) 112 Cal.App.4th 1254, 1259.)

Mootness: Dismissal of dependency matter does not make initial assumption of jurisdiction moot. (*In re Marquis H.* (2013) 212 Cal.App.4th 718, 724; *In re J.S.* (2011) 197 Cal.App.4th 1291, 1295; *In re Daisy H.* (2011) 192 Cal.App.4th 713, 716; *In re J.K.* (2009) 174 Cal.App.4th 1426, 1431-1432 [though there were still grounds for jurisdiction alleged against mother]; *In re A.R.* (2009) 170 Cal.App.4th 733, 741; *In re Joel H.* (1993) 19 Cal.App.4th 1185, 1193.)

Mootness: If the parent were successful on appeal, he or she would also not be subject to reimbursement costs. (See Welf. & Inst. Code, § 903.)

Mootness: Considering one parent's challenge to jurisdiction is not moot because the decision would affect the dispositional orders and failure to consider the matter can prejudice the course of the dependency. (*In re Quentin H.* (2014) 230 Cal.App.4th 608, 613 [would make the parent a non-offending parent]; *In re Christopher M.* (2014) 228 Cal.App.4th 1310, 1316-1317; *In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.)

Mootness: The parent can challenge some of the jurisdictional findings, though not others, without challenging the dispositional orders. (*In re D.P.* (2014) 225 Cal.App.4th 898, 902; *In re Anthony G.* (2011) 194 Cal.App.4th 1060; but see *In re A.R.* (2014) 228 Cal.App.4th 1146, 1150-1151; *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492-1495.)

The burden of proof in the juvenile court is the preponderance of the evidence. (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318; *In re Tania S.* (1992) 5 Cal.App.4th 728, 733.)

If jurisdiction can be upheld on one ground, need not review the other grounds for finding jurisdiction. (*Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 73; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875-876; but see *In re John S.* (2001) 88 Cal.App.4th 1140, 1143 [which findings relevant to whether the case plan was appropriate]; see *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

Mootness: Sustaining a subsequent petition (Welf. & Inst. Code, § 342) rendered the challenge to the original petition moot. (*In re A.B.* (2014) 225 Cal.App.4th 1358, 1363-1365.)

Standard of review: Substantial evidence. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820; *In re Heather A.* (1996) 52 Cal.App.4th 183, 193; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875; *In re Amy M.* (1991) 232 Cal.App.3d 849, 859-860; *In re Bernadette C.* (1982) 127 Cal.App.3d 618.)

Although there was sufficient evidence to find jurisdiction, uphold the court's

finding an allegation was not true because it impliedly found a witness not credible. (*In re Jessica C.* (2001) 93 Cal.App.4th 1027, 1043; *In re Sheila B.* (1993) 19 Cal.App.4th 187, 200 ["Our review of the record . . . does not persuades us that there is indisputable evidence of abuse."].)

The court could not rely on unalleged conduct as grounds for jurisdiction. (*In re J.O.* (2009) 178 Cal.App.4th 139, 152, fn. 13.)

Remedy: CPS can refile after reverse jurisdiction. (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 569 [dicta].)

Remedy: for a demurrer is to give CPS new opportunity to replead and relitigate the matter. (*In re S.D.* (2002) 99 Cal.4th 1068, 1083-1084.)

300(a) SERIOUS PHYSICAL HARM:

Section 300(a) is not unconstitutionally vague. (*In re Moriah T.* (2008) 159 Cal.App.4th 428, 434-438.)

Serious physical harm is great bodily injury, lesser injury repeatedly inflicted, or risk of such. (*In re Isabella A.* (2014) 226 Cal.App.4th 128, 131-134, 138-139; *In re Moriah T.* (2008) 159 Cal.App.4th 428, 436-437.)

Can find jurisdiction based on mother using drugs while pregnant. (*In re Stephen W.* (1990) 221 Cal.App.3d 629, 638; *In re Troy D.* (1989) 215 Cal.App.3d 889, 897.)

Absent unusual circumstance, such as a long lapse of time, prior abuse alone is sufficient. (*In re David H.* (2008) 165 Cal.App.4th 1626, 1644.)

"Small children are not to be hit with hard objects, especially to the point of leaving black and blue bruises." (*In re A.E.* (2008) 168 Cal.App.4th 1, 4.)

Disciplining a three year-old with belt strikes on the stomach and forearm, leaving deep bruising was sufficient evidence of physical abuse. (*In re Martin T.* (2008) 159 Cal.App.4th 428, 438-439.)

Hitting a child on the back of the hand with a pipe and the back of a broom on separate occasions qualified. (*In re N.M.* (2011) 197 Cal.App.4th 159, 168-169.)

Harsh words and spanking insufficient evidence of physical abuse. (*In re Joel H.* (1993) 19 Cal.App.4th 1185, 1200-1201.)

Sufficient evidence from domestic violence which puts the minor at risk of

suffering serious physical injury. (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598-599.)

Section 355.1 shifts the burden of producing evidence to the parent once CPS shows the reported injuries do not normally arise non-accidently; once the parent presents evidence to the contrary, CPS must prove the allegations by the preponderance of the evidence. (*In re Esmeralda B.* (1992) 11 Cal.App.4th 1036, 1040-1041; *In re Larissa W.* (1991) 227 Cal.App.3d 124, 132; *In re Katrina C.* (1988) 201 Cal.App.3d 540, 545-546; *In re James B*. (1985) 166 Cal.App.3d 934; see also *In re Quentin H.* (2014) 230 Cal.App.4th 608, 615-620 [social worker's own report that the father was a good parent rebutted the presumption that 20 year old sex offense made him unfit]; *In re E.H.* (2003) 108 Cal.App.4th 659, 669; *In re Sheila B.* (1993) 19 Cal.App.4th 187, 200 ["Since the juvenile court never made the finding required by this section, this presumption never came into play."].) The presumption required assumption of jurisdiction when the father was a convicted child molester and had been committed under the SVP Act. (*Los Angeles Dept. of Children and Family Servs. v. Superior Court (D.S.)* (2013) 222 Cal.App.4th 149, 161-164.)

Waiver: The county's failure to assert the presumption of abuse under section 355.1 in the trial court forfeits the matter on appeal. (*In re A.S.* (2011) 202 Cal.App.4th 237, 242-243; contra, *In re D.P.* (2014) 225 Cal.App.4th 898, 903-905.)

Prejudice: Error in using the presumption under section 355.1 is subject to harmless error. (*In re D.P.* (2014) 225 Cal.App.4th 898, 904.)

Remedy: When the court erroneously applies the presumption, the remedy is to remand the matter for a new jurisdictional hearing. (*In re Quentin H.* (2014) 230 Cal.App.4th 608, 620-621.)

300(b) FAILURE TO PROTECT:

Prima facie elements: (1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) serious physical harm or illness to the child or a substantial risk of such. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820; *In re Ricardo L.* (2003) 109 Cal.App.4th 552, 558-559 [neglect of sibling almost 2 years old and failure to do case plan not enough without showing the problems still exist]; but see *In re Jessica C.* (2001) 93 Cal.App.4th 1027, 1037-1038 [jurisdiction was proper, despite poor pleading, if the court (impliedly) found sufficient basis for jurisdiction].)

"The third element 'effectively requires a showing that at the time of the jurisdiction hearing the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur). [Citations.]'" (*In re David M.* (2005) 134 Cal.App.4th 822, 829, quoting *In re Savannah M.* (2006) 131 Cal.App.4th 1387, 1396.)

Substantial physical danger generally fall into two categories: children exposed to specific hazards (e.g., past abuse), and children without adequate supervision and care. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.)

Past behavior is the best predictor of risk of future harm. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 424; *In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1135.)

But evidence simply that a sibling was removed in the previous three or four years without evidence of a continuing problem is insufficient for jurisdiction. (*In re David M.* (2005) 134 Cal.App.4th 822, 831-832.)

An allegation in a petition or evidence simply that there was a prior allegation of unfitness is not substantial evidence without evidence the allegation was substantiated. (*In re Miguel E.* (2004) 120 Cal.App.4th 521, 547.)

CPS is not a "super-OSHA" to correct minor flaws in living conditions. (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397-398; *In re Paul E.* (1995) 39 Cal.App.4th 996, 1005; see *In re Kimberly F.* (1997) 56 Cal.App.4th 519, 530, fn. 8 ["The juvenile system, however, exists to protect abused and neglected children, not serve as a kind of super-psychologist."].)

"The mere fact that a parent is angry when he or she disciplines a child is not enough to show substantial danger. Not every parent can affect the mien of Mister Rogers when disciplining a child. Discipline is usually associated with some anger; often the anger itself comes from the parent trying to be protective." (*In re Jasmine G.* (2000) 82 Cal.App.4th 282, 292.) Excessive disciplining of a sibling places the minor at risk. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917-918.) Reasonable parental disciplining is a defense to an administrative finding of child abuse. (*Gonzalez v. Santa Clara Cnty. Dept. of Socl. Servs.* (2014) 223 Cal. App. 4th 72, 87.)

"Perception of risk, rather than actual evidence of risk, do not suffice as substantial evidence." (*In re James R.* (2009) 176 Cal.App.4th 129, 137.)

The parent must be unfit. (*In re Precious D.* (2010) 189 Cal.App.4th 1251, 1259-1261 [no jurisdiction when the parent tried everything but the minor ran away and would not do counseling].)

No jurisdiction when mother had baby with 15 year-old neighbor boy; no evidence the father is unable to protect the minor. (*In re B.T.* (2011) 193 Cal.App.4th 685, 693-697.)

Parent having illicit relationship is not sufficient for jurisdiction. (*In re Raya* (1967) 255 Cal.App.2d 260.)

The parents' history of domestic violence was sufficient. (*In re John M.* (2013) 217 Cal.App.4th 410, 418-419; *In re T.V.* (2013) 217 Cal.App.4th 216, 134-135; *In re R.C.* (2012) 210 Cal.App.4th 930, 935-939; *In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598-599 [under subd. (a)]; *In re E.B.* (2010) 184 Cal.App.4th 568, 575-576; *In re S. O.* (2002) 103 Cal.App.4th 453, 460-462 [and mother left abusive boyfriend to care for the minor; despite no contact for a year under court order, she was still not sure whether would leave him]; *In re Heather A*. (1999) 52 Cal.App.4th 183, 194 ["domestic violence in the same household where children are living *is* neglect; it is a failure to protect Helen and Heather from the substantial risk of encountering the violence and suffering serious physical harm or illness from it. Such neglect *causes* the risk."]; *In re Benjamin D.* (1991) 227 Cal.App.3d 1464, 1472 [physical injury inflicted on the minors]; but see *In re Alysha S.* (1996) 51 Cal.App.4th 393, 400; *In re Basilio T.* (1992) 4 Cal.App.4th 1558, 169-172 [insufficient evidence for removal when minor never in harm's way].) But domestic violence is not parents arguing without evidence of threats or violence. (*Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322, 1342 ["characterizing it as such trivializes true acts of domestic violence"].) "Physical violence between a minor's parents may support the exercise of jurisdiction under subdivision (b) but only if there is evidence that the violence is ongoing or likely to continue and that it directly harmed the child's physically or placed the child at risk of physical harm." (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 717 [one domestic violence incident seven years ago, no signs of abuse or fear not enough for jurisdiction under subd. (a) or (b)].)

The court can assume jurisdiction when the mother made unfounded allegations of molestation against the father during divorce proceedings. (*In re H.E.* (2008) 169 Cal.App.4th 710, 718-724.)

Misdemeanor arrest record not sufficient for jurisdiction. (*In re Sergio C.* (1999) 70 Cal.App.4th 957, 960.)

Dependency petition properly dismissed when parents declined surgery to correct a ventricular septal defect in their child who suffered from Down's Syndrome. (*In re Phillip B.* (1979) 92 Cal.App.3d 796.)

Parents' treatment of child's illness with herbs justified dependency. (*In re Petra B.* (1989) 216 Cal.App.3d 1163; see also *Guardianship of Phillip B.* (1983) 139 Cal.App.3d 407.)

Faith healing and leaving the child in a car can be grounds for finding child abuse. (See *People v. Valdez* (2002) 27 Cal.4th 778, 790; but see *People v. Craney* (2002) 96 Cal.App.4th 431, 441 [not child abuse per se to not report severe injury to hospital immediately].)

There was not a failure to provide medical treatment when the mother used a

safety pin and knife to remove a tattoo and medical care was not necessary. (*In re J.O.* (2009) 178 Cal.App.4th 139, 152.)

There was sufficient evidence for jurisdiction when the mother fed the baby every four hours, instead of every two hours, leading to weight loss, though she fed the baby more regularly after CPS became involved and the minor was gaining weight. (*In re Adam D.* (2010) 183 Cal.App.4th 1250, 1261-1262.)

The juvenile court properly denied jurisdiction when there was no evidence the parents were aware of the minor's abuse and acted responsibly when they learned there was something wrong. (*In re Roberto C.* (2012) 209 Cal.App.4th 1241, 1254-1256.)

There was not grounds for jurisdiction due to a danger posed by the father when he was no longer in the home. (*In re Isabella A.* (2014) 226 Cal.App.4th 128, 139-140.)

Sustained pattern of abuse permits finding of jurisdiction, though there were no injuries or corroboration. (*In re Veronica G.* (2007) 157 Cal.App.4th 179, 185.)

Under Penal Code section 272, parents have a duty to prevent their children from committing delinquent acts. (See *Brekke v. Wills* (2005) 125 Cal.App.4th 1400, 1411.)

Mother was unable to protect child when she did not believe allegations father or boyfriend molested the child. (*In re Maria D.* (2010) 185 Cal.App.4th 48, 60; *In re S.C.* (2006) 138 Cal.App.4th 396, 416 [boyfriend]; *In re Katrina W.* (1994) 31 Cal.App.4th 441 [father]; see also *In re E.B.* (2010) 184 Cal.App.4th 568, 577 [boyfriend is registered sex offender].)

The minor acting sexually inappropriately was not grounds for jurisdiction when there was insufficient evidence the parents did not adequately supervise the minor. (*In re R.M.* (2009) 175 Cal.App.4th 986, 989.)

When the mother permitted the minor to stay in a home with a registered sex offender and a person with a previous violent felony, the court erred in not assuming jurisdiction, though the mother testified she was unaware the minor was being molested until she notified authorities. (*In re J.L.* (2014) 226 Cal.App.4th 1429, 1433-1435.)

There was substantial evidence the mother failed to protect the minors when she permitted them to be with the abusive father. (*In re A.R.* (2014) 228 Cal.App.4th 1146, 1152-1154.)

Father was unable to protect the child because he knew of the mother using drugs while pregnant. (*In re J.C.* (2014) 233 Cal.App.4th 1, 5-6.)

Dirty home, mother permit access to sex registrant for child molestation, and the father unable to protect because in prison was sufficient evidence. (*In re James C.* (2002)

104 Cal.App.4th 470, 482.)

Mental illness alone is not enough for jurisdiction unless CPS can show it caused harm to the child. (*In re A.G.* (2013) 220 Cal.App.4th 675, 683-685 [though mother was mentally ill, the father always was fit; the matter belonged in family court]; *In re James R.* (2009) 176 Cal.App.4th 129, 136-137 [mother with mental health history took ibuprofen and drank beer was insufficient when parents were able to parent]; *In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318 ["The Department has the burden of showing specifically how the minors have been or will be harmed and harm may not be presumed from the mere fact of mental illness of a parent."]; *In re David D.* (1994) 28 Cal.App.4th 941, 952; *In re Heather P.* (1988) 203 Cal.App.3d 1214, 1228-1229; *In re Jaime M.* (1982) 134 Cal.App.3d 530, 540-542.)

"The mere fact she is labeled a schizophrenic really tells us very little about her behavior and its affect on her children. How then is a court to use this crucial and yet nebulous diagnosis in ruling on the proper disposition to be made of her children? It would appear that a diagnosis of schizophrenia should be the court's starting point, not its conclusion. Rather than mandating a specific disposition because the mother is schizophrenic, the diagnosis should lead to an in-depth examination of her psychiatric history, her present condition, her previous response to drug therapy, and the potential for future therapy with a focus on what affect her behavior has had, and will have, on her children." (*In re Jaime M.* (1982) 134 Cal.App.3d 530, 540.)

" 'Harm to the child cannot be presumed from the mere fact of mental illness of the parent and it is fallacious to assume the children will somehow be "infected" by the parent. The proper basis for a ruling is expert testimony giving specific examples of the manner in which the mother's behavior has and will adversely affect the child or jeopardize the child's safety. . . . It cannot be presumed that a mother who is proven to be "schizophrenic" will necessarily be detrimental to the mental or physical well-being of her offspring. . . . The social worker must demonstrate with specificity *how* the minor has been or will be harmed by the parents' mental illness.' " (*In re Jamie M.* (1982) 134 Cal.App.3d 530, 540; *In re Heather P*. (1988) 203 Cal. App. 3d 1214, 1228-1229, overruled on other grounds, *In re Richard S*. (1991) 54 Cal. 3d 857, 866, fn. 5, internal citations omitted, italics in original; *In re David D.* (1994) 28 Cal.App.4th 941, 953; *In re Janet T.* (2001) 93 Cal.App.4th 377, 390.)

Mental illness can be established by lay witnesses or description of the parent's behavior. (*In re Khalid H.* (1992) 6 Cal.App.4th 733, 736-737.)

Drug use without showing a link to potential harm to the minor is insufficient grounds for jurisdiction. (*In re Rebecca C.* (2014) 228]ca4 720, 727-728; *In re Drake M.* (2012) 211 Cal.App.4th 754, 768-769; *In re Destiny S.* (2012) 210 Cal.App.4th 999, 1002-1005 [mother's drug use causing minor to be late for school was insufficient]; *In re*

James R. (2009) 176 Cal.App.4th 129, 136-137 [mother with mental health history took ibuprofen and drank beer was insufficient when parents were able to parent]; *In re David M.* (2005) 134 Cal.App.4th 822, 830; *Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322; but see *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1217 [mother's drug history leading to sibling being born testing positive].)

Drug use not amounting to abuse is not grounds for jurisdiction. (*In re Drake M.* (2012) 211 Cal.App.4th 768 [medical marijuana not grounds]; see *Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322, 1346.)

But drug use leading to the minor being born under the influence is sufficient for jurisdiction. (*In re Monique T.* (1992) 2 Cal.App.4th 1372, 1374-1375; *In re Stephen W.* (1992) 221 Cal.App.3d 629, 639; *In re Troy D.* (1989) 215 Cal.App.3d 889, 897; see also *In re Lana S.* (2012) 207 Cal.App.4th 94, 103-105 [history of drug use, one says parent is still using, paraphernalia found in the home, minor tested positive].)

Alcohol use that placed a child at risk of harm was sufficient for jurisdiction. (*In re Samkirtana S.* (1990) 222 Cal.App.3d 1475; see also *In re R.R.* (2010) 187 Cal.App.4th 1264, 1283-1284 [history of meth use, currently using alcohol, cocaine, meth, and marijuana].)

There was substantial evidence of drug abuse, though there was not a psychological diagnosis for drug abuse. (*In re Rebecca C.* (2014) 228 Cal.App.4th 720, 725-727.) Parent using medical marijuana, exposing the minor to the smoke and the parent's behavior under the influence was ground as jurisdiction. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451-452.)

Insufficient evidence of drug use when find parent passed out apparently under the influence but subsequent investigation shows clean urine test and parent may have suffered from bad reaction from prescription psychotropic medication. (*Kimberly R. v. Superior Court* (2002) 96 Cal.App.4th 1067, 1079.) Insufficient evidence for jurisdiction due to the mother's drug use when she used marijuana once when pregnant because there was no evidence of it being a continuing problem or causing harm. (*In re David M.* (2005) 134 Cal.App.4th 822, 829-830.) Insufficient evidence for jurisdiction due to a babysitter using marijuana once when the babysitter was not under the influence when babysat and the babysitter was not used again. (*In re David M.* (2005) 134 Cal.App.4th 822, 831.) Insufficient evidence for jurisdiction when the parents were involved in a DUI accident with the children in the car, but it was an isolated incident with no evidence of an ongoing problem. (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1022-1026; but cf. *In re E.B.* (2010) 184 Cal.App.4th 568, 575 [DUI and family says mother has alcohol problem].)

Homelessness alone should not be grounds for jurisdiction. (*Hansen v. Ventura Co. DSS* (1987) 193 Cal.App.3d 283, 294-298; but see *In re John M.* (2012) 212

Cal.App.4th 1117, 1124-1126 [not use financial support, other problems].)

Not sending a child to school not grounds for jurisdiction under subdivision (b). (*In re Janet T.* (2001) 93 Cal.App.4th 377, 388-389.)

Court cannot require psychological evaluation of parent before jurisdictional hearing. (*Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 202-203; cf. *In re Rebecca H.* (1991) 227 Cal.App.3d 825.)

300(c) EMOTIONAL ABUSE:

Emotional harm means neglectful or exploitive conduct which causes any serious symptoms identified in the statute. Abuse means ill-use or maltreatment to injure, wrong, or hurt. (*In re Brinson C.* (2000) 81 Cal.App.4th 1373, 1379; *In re Alexander K.* (1993) 14 Cal.App.4th 549, 557; see *In re James T.* (1987) 190 Cal.App.3d 58, 65.)

No jurisdiction under subdivision (c) because the child is upset over the parents' divorce. (*In re Alexander K.* (1993) 14 Cal.App.4th 549, 557; *In re Brison C.* (2000) 81 Cal.App.4th 1373, 1379 [must have outward emotional symptoms]; *In re DeJohn B*. (1996) 41 Cal.App.4th 961, 975-976; but see *In re A.J.* (2011) 197 Cal.App.4th 1095, 1105-1106 [questioning rule in *Brison C.* that there must be some outward emotional symptoms].) But jurisdiction because of emotional abuse from parents' fighting in front of the child. (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 717-718 [emotional harm from the parents yelling at each other and calling each other names]; *In re Shelley J.* (1998) 68 Cal.App.4th 322; *In re Anne P.* (1988) 199 Cal.App.3d 183, 191; see *In re Christopher C.* (2010) 182 Cal.App.4th 73, 83-85 [parents accused each other of abusing the children and attempted to have them lie to investigators]; *In re R.M.* (2009) 175 Cal.App.4th 986, 990-991.) The court can assume jurisdiction when the mother made unfounded allegations of molestation against the father during divorce proceedings. (*In re H.E.* (2008) 169 Cal.App.4th 710, 718-724; see also *In re A.J.* (2011) 197 Cal.App.4th 1095, 1104-1105 [minor had nightmares because mother made false allegations against father to have police remove the minor].)

Harsh words and spanking insufficient evidence of emotional abuse. (*In re Joel H.* (1993) 19 Cal.App.4th 1185.)

Parent's delusional thinking was sufficient for jurisdiction under subdivision (c). (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1320-1321.)

300(d) SEXUAL ABUSE:

A court has jurisdiction if the minor is currently at risk of being sexually abused,

or if the minor has been sexually abused even if there is not a current risk. (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1439-1440 [father molested the minor before]; *In re Carlos T.* (2009) 174 Cal.App.4th 795, 803-806 [there is a current risk, though the offending father is in prison because the conviction can be reversed or the mother might choose to live with another child molester].)

Sexual abuse includes any act qualifying as sexual assault under Penal Code section 11165.1. (*In re Karen R.* (2001) 95 Cal.App.4th 84, 89-90 [thus, under Pen. Code, § 647.6, knowledge that father molested sister would be annoying to her brother and qualify him for jurisdiction]; see *In re R.C.* (2011) 196 Cal.App.4th 741, 750-752 [adult and 12 year old kiss passionately and say they are in love with each other, though had not intercourse].)

Child's contradictory testimony of lewd conduct by parent sufficient for jurisdiction. (*In re Maria D.* (2010) 185 Cal.App.4th 48, 59; *In re P.A.* (2006) 144 Cal.App.4th 1339, 1343-1345; *In re Eric H.* (1997) 54 Cal.App.4th 955, 960.)

A parent annoying a minor (see Pen. Code, § 647.6) is sufficient for jurisdiction. (*In re D.G.* (2012) 208 Cal.App.4th 1562, 1570-1572 [offering sex for money].)

Molesting a sibling, even of the opposite sex, presumptively puts the minor at risk. (Welf. & Inst. Code, § 355.1, subd. (d); *In re I.J.* (2013) 56 Cal.4th 766, 778-780; *Los Angeles Cnty. Dept, Children and Family Servs, v. Superior Court* (2013) 215 Cal.App.4th 962, 967-970; *In re Ricky T.* (2013) 214 Cal.App.4th 515, 521-522; *In re R.V.* (2012) 208 Cal.App.4th 837, 843-846; *In re Andy G.* (2010) 183 Cal.App.4th 1405, 1410-1415 [14 year old boy at risk after parent molested pre-teen half-sisters]; *In re P.A.* (2006) 144 Cal.App.4th 1339, 1345; *In re Karen R.* (2001) 95 Cal.App.4th 84, 89-90; *In re Jordan R.* (2012) 205 Cal.App.4th 111, 136-139 [cited with approval in *I.J.*].)

Court has jurisdiction, even if it never identified who sexually abused the child. (*In re Christina T.* (1986) 184 Cal.App.4th 630, 639-640.)

Juvenile court could sustain jurisdiction on allegations the father molested the child despite the findings in family court that father did not molest the child; collateral estoppel did not apply. (*In re Travis C.* (1991) 233 Cal.App.3d 492.)

Insufficient evidence of the parents' failure to protect the minor from sexual abuse when they caught a friend attempting to molest the minor for the first time, they kicked him out of the home, and they called the police; there was insufficient evidence of a risk of future harm. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1395-1398.)

Insufficient evidence of need to protect baby girl born when the mother had a relationship with a neighboring 15 year-old boy. (*In re B.T.* (2011) 193 Cal.App.4th 685, 694-696.)

The court has jurisdiction when the minor is molested by the boyfriend but the mother does not believe the allegations. (*In re S.C.* (2006) 138 Cal.App.4th 396, 416; see also *In re Martin T.* (2008) 159 Cal.App.4th 428, 439-440 [mother did not believe allegation by 13 year-old girl that step-father entered her bed twice and touched her thigh].) The court has jurisdiction when the mother's boyfriend is a registered sex offender. (*In re E.B.* (2010) 184 Cal.App.4th 568, 577.)

300(e) SEVERE ABUSE OF TODDLER:

Elements: (1) there is a minor under the age of five; (2) who has suffered severe physical abuse as defined in section 300, subdivision (e); (3) by a parent or any other person know to the parent if the parent knew or reasonably should have known that the person was physically abusing the minor. (*In re E.H.* (2003) 108 Cal.App.4th 659, 668; *In re Joshua H.* (1993) 13 Cal.App.4th 1718, 1728; *id.* at p. 1729 [finding of jurisdiction does not require the parent's constructive knowledge of the abuse]; see also *In re K.F.* (2014) 224 Cal.App.4th 1369, 1381-1383 [substantial evidence though other people could have caused it]; *Tyrone W. v. Superior Court* (2007) 151 Cal.App.4th 839, 852-853 [sufficient evidence of abuse when the doctor said injuries were "likely indicative of child abuse"].)

300(f) DEATH OF CHILD:

The court may assume jurisdiction over a child when there was a death to another child, even if the child is not currently at risk of harm. (*In re Ethan C.* (2012) 54 Cal.4th 610, 637-639; *In re A.M.* (2010) 187 Cal.App.4th 1380, 1389.)

It applies when there is simple negligence. (*In re Ethan C.* (2012) 610, 627-637.) The parent's actions or inactions only need to be a substantial factor in the child's death, even if there are intervening superseding causes. (*In re Ethan C.* (2012) 54 Cal.4th 610, 639-641; *J.M. v. Superior Court* (2012) 205 Cal.App.4th 483, 487-488.) The court must assume jurisdiction if a child dies when the parent is at least negligent in obtaining medical care. (*Los Angeles Cnty. Dept. Family an d Children Servs. v. Superior Court* (2012) 211 Cal.App.4th 13, 20-22.)

300(g) ABANDONMENT:

Subdivision (g) does not require the parent to be unwilling or unable to provide support. (*D.M. v. Superior Court* (2009) 173 Cal.App.4th 1117, 1128 [the court can assume dependency jurisdiction over a 15 year-old delinquent].)

Incarceration alone not grounds for jurisdiction if parent can arrange for the care of the child. (*In re Aaron S.* (1991) 228 Cal.App.3d 202, 207-210; *In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1320 [that father was working in Brazil and left mother to care for minor not state minor was left without support]; *Maggie S. v. Superior Court* (2013) 220 Cal.App.4th 662, 672-673 [CPS must allege and prove the person left to care for the minor was unsuitable]; *In re Noe F.* (2013) 213 Cal.App.4th 358, 365-366 [insufficient evidence under § 300(b) when the mother was in jail, the grandmother who cared for the minor died, but the mother had other fit relatives able to care for the minor]; *In re S.D.* (2002) 99 Cal.App.4th 1068, 1077-1079 [even if the parent had not done so before jurisdiction, even if parent's first placement not successful]; *In re Monica C.* (1995) 31 Cal.App.4th 296, see *In re Janet T.* (2001) 93 Cal.App.4th 377, 392 [failure of father to provide may be true and enough for a showing under the subdivision, but dismiss the petition because never really the basis of intervention]; but see *In re J.O.* (2009) 178 Cal.App.4th 139, 153-154 [the incarcerated father had no contact with the minor for eight years and never offered alternate care before the dependency court became involved]; *In re Alexis H.* (2005) 132 Cal.App.4th 11, 16 [under subds. (b) & (g)]; *In re James C.* (2002) 104 Cal.App.4th 470, 484 [in prison most of minor's life and not providing support]; *In re Athena P.* (2002) 103 Cal.App.4th 617, 630 [leaving child with grandparent when in prison is grounds for jurisdiction when never formed guardianship].)

"[T]he fact that a child has been left with other caretakers will not warrant a finding of dependency if the child receives good care." (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) "If an incarcerated parent can make suitable arrangements for a child's care during his or her incarceration, 'the juvenile court ha[s] no basis to take jurisdiction in th[e] case, and [the social services agency] simply ha[s] no say in the matter.' ([*In re S.D.* (2002) 99 Cal.App.4th 1068, 1077], citing *In re Aaron S.* (1991) 228 Cal.App.3d 202.)" (*In re Isayah C.* (2004) 118 Cal.App.4th 684, 696; but see *M.L. v. Superior Court* (2009) 172 Cal.App.4th 520, 528 [though mother arranged for someone to adopt, CPS can detain the minor and place him or her with someone else].) "[A] parent may have custody of a child, in a legal sense, even while delegating day-to-day care of that child to a third party for a limited period of time." (*In re Isayah C.* (2004) 118 Cal.App.4th 684, 700.)

There is no jurisdiction under subdivision (g) when the minor was supported by the mother, though the father provided nothing and had no contact. (*In re Anthony G.* (2011) 194 Cal.App.4th 1060, 1065-1066.)

The court can "place" with the noncustodial parent who is in prison but can leave the minor with an appropriate caretaker. (*In re V.F.* (2007) 157 Cal.App.4th 962, 973.)

300(h) RELINQUISHMENT:

300(i) CRUELTY:

Pinching the minor, beating him, and intentionally inflicting pain was cruelty. (*In re Benjamin D.* (1991) 227 Cal.App.3d 1464, 1472-1473.)

Cruelty is the "intentional acts that directly and needlessly inflict extreme pain or distress," even when the parent does not intend to harm the child (cf. *Sargent* ["unjustifiable physical pain and mental suffering"]. (*In re D.C.* (2011) 195 Cal.App.4th 1010, 1017 [dunking a child afraid of water for the parent's own baptism ceremony]; see also *In re Francisco D.* (2014) 230 Cal.App.4th 73, 81-82 [verbal and emotional abuse with some physical abuse].)

300(j) SIBLING ABUSED:

Prima facie elements: (1) "The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i)"; and (2) "there is a substantial risk that the child will be abused or neglected as defined in those subdivisions." (*In re Rubisela E.* (2000) 85 Cal.App.4th 177, 197, disapproved on other grounds in *In re I.J.* (2013) 56 Cal.4th 766, 781-782.)

The child must be at risk because of the abuse of a sibling. (*In re Amy M.* (1991) 232 Cal.App.3d 849, 865 [emotional abuse not grounds under (j)]

Evidence simply that a sibling was removed in the previous three or four years without evidence of a continuing problem is insufficient for jurisdiction. (*In re David M.* (2005) 134 Cal.App.4th 822, 831-832.)

But reasonable for the court to believe child at risk after finding sibling was molested. (*In re Karen R.* (2001) 95 Cal.App.4th 84, 91 [under § 300(d), molestation of sister creates substantial evidence minor at risk]; *In re Joshua J.* (1995) 39 Cal.App.4th 984, 994-995; *In re Jason L.* (1990) 222 Cal.App.3d 1206, 1215; *In re Dorothy I.* (1984) 162 Cal.App.3d 1154.)

After finding sibling was abused, parent collaterally estopped from alleging the sibling was not abused in petition concerning a different child. (*In re Joshua J.* (1995) 39 Cal.App.4th 984.)

The court can find jurisdiction under subdivision (j) without making a finding in the sibling's case. (*In re Ashley B.* (2012) 202 Cal.App.4th 968, 980-981.)

After finding sibling not abused, subdivision (j) allegation also fails. (*In re Janet*

T. (2001) 93 Cal.App.4th 377, 391-392.)

UCCJA:

The Uniform Child Custody Jurisdiction Act (Fam. Code, § 3400 et seq.), was enacted " to '[avoid] jurisdictional competition and conflict, [promote] interstate cooperation, [litigate] custody where child and family have closest connections, [discourage] continuing conflict over custody, [deter] abductions and unilateral removals of children, [avoid] relitigation of another state's custody decisions, and [promote] exchange of information and other mutual assistance between courts of sister states.' [Citation.]" (*In re C.T.* (2002) 100 Cal.App.4th 101, 106.) The UCCJA's policy was "to limit, rather than proliferate, jurisdiction." (*In re Marriage of Newsome* (1998) 68 Cal.App.4th 949, 957; accord, *In re Stephanie M.* (1994) 7 Cal.4th 295, 313.) The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (still found at Fam. Code, § 3400 et seq.) replaced UCCJA effective January 2000. (*In re Nadia R.* (2001) 89 Cal.App.4th 1166, 1173.)

The UCCJA "provides the exclusive method of determining subject matter jurisdiction in custody cases in California" and apply to juvenile proceedings and international custody disputes. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 310; Fam. Code, § 3405, subd. (a).) The UCCJA "is the exclusive method of determining the proper forum in custody disputes involving other jurisdictions and govern juvenile dependency proceedings. (*In re C.T.* (2002) 100 Cal.App.4th 101, 106; Fam. Code, §§ 3402, subd. (c), 3421, subd. (b).) When there is a determination of custody or a protective order under the Act, there cannot be a separate protective order under a different statutory scheme. (*Marriage of Fernandez-Abin and Sanchez* (2011) 191 Cal.App.4th 1015, 1036-1045.)

The court could assume emergency jurisdiction under UCCJEA (Fam. Code, § 3423) and then transfer to the other state for the jurisdictional hearing. (*In re C. T.* (2002) 100 Cal.App.4th 101, 113.) An "emergency" exists when there is an immediate risk of danger to the child if he or she is returned to a parent. (*In re Nada R.* (2001) 89 Cal.App.4th 1166, 1174.) Although there can be an emergency detention without a hearing, the court cannot assume emergency jurisdiction without an evidentiary hearing. (*In re A.C.* (2005) 130 Cal.App.4th 854, 863.) A court's custody determination remains in effect under the court's emergency jurisdiction until a child custody proceeding has began in the state with subject matter jurisdiction (§ 3424. subd. (b)) or until the state of emergency no longer exists. (*In re Angel L.* (2008) 159 Cal.App.4th at 1127, 1139; *In re Nada R.* (2001) 89 Cal.App.4th 1166, 1175.) Emergency jurisdiction existed when the minor was found abandoned in California; jurisdiction exists as long as the minor could not be safely returned to the parents and no other court would take jurisdiction. (*In re*

Jaheim B. (2008) 169 Cal.App.4th 1343, 1350-1351.) Emergency jurisdiction existed when the parent attempted to smuggle heroin across the Mexican border with the minor. (*In re A.M.* (2014) 224 Cal.App.4th 593, 599.)

The finding of an emergency should only be made after an evidentiary hearing. (*In re C. T.* (2002) 100 Cal.App.4th 101, 107) ["[u]nsubstantiated allegations are insufficient to invoke emergency jurisdiction"].) Nonetheless, the child may be detained prior to that hearing for his or her protection. (See *In re C. T.* (2002) 100 Cal.App.4th 101, 108, fn. 3 ["'[w]hen a petition contains allegations of an emergency situation, it is proper for a court to issue an interim custody order to protect the child pending the hearing'"]; *In re A.C.* (2005) 130 Cal.App.4th 854, 864.)

When a California court asserting temporary emergency jurisdiction is aware that a child custody determination has been made by another jurisdiction, the California court "shall immediately communicate with the other court." (§ 3424, subd. (d).) "To make an appropriate order under the [UCCJEA], the California court needs to know whether the sister state court wishes to continue its jurisdiction and how much time it requires to take appropriate steps to consider further child custody orders." (*In re C. T.* (2002) 100 Cal.App.4th 101, 110-111; accord *In re Marriage of Fernandez-Abin & Sanchez* (2011) 191 Cal.App.4th 1015, 1041.) "The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made." (§ 3410, subd. (b).) Additionally, a record must be made of substantive communications between the courts, and the parties granted access to the record. (§ 3410, subds. (c), (d).)

Subject matter jurisdiction either exists or does not exist at the time the action is commenced and cannot be conferred by stipulation, consent, waiver or estoppel. (*In re A.C.* (2005) 130 Cal.App.4th 854, 860.) Under Family Code section 3421, California had jurisdiction over a minor who came from Saudi Arabia to Florida in order to visit the mother, and the mother took the minor to California. Once California assumed emergency jurisdiction, it retained jurisdiction. (*In re Nada R.* (2001) 89 Cal.App.4th 1166, 1174.)

California had jurisdiction when parents were from Nebraska but they said they were living in their van in California. (*In re S.W.* (2007 148 Cal.App.4th 1501, 1509.) California had jurisdiction when the minors were in California when dependency started, were in California foster home, and the parents moved around. (*In re Angel L.* (2008) 159 Cal.App.4th 1127, 1136-1141.)

California court erred in assuming permanent jurisdiction without notifying the home government. (*In re Gino C.* (2014) 224 Cal.App.4th 959, 965-967.)

California did not have jurisdiction over a minor in a California hospital where the

parents and the minor live in Mexico. (*In re A.C.* (2005) 130 Cal.App.4th 854, 860-862.) California did not have jurisdiction when there was no evidence the minor was in the state. (*In re Baby Boy M.* (2006) 141 Cal.App.4th 588, 599-600.) California did not have jurisdiction over a child who was in the state as a runaway for six months. (*In re Nelson B.* (2013) 215 Cal.App.4th 1121, 1130-1132.)

The UCCJEA does not require the parent or minor to be present in the jurisdiction for the court to assume jurisdiction. (*In re Claudia S.* (2005) 131 Cal.App.4th 236, 246 [petition filed after the parent fled with the child].)

CPS has the burden of proving jurisdiction under UCCJEA. (*In re Baby Boy M.* (2006) 141 Cal.App.4th 588, 599.)

"Foreign state" under the Act includes other countries. (*In re Sabrina H.* (2007) 149 Cal.App.4th 1403, 1412.)

The juvenile court has concurrent jurisdiction over minors protected by the federal sex slavery act. (*In re Y.M.* (2012) 207 Cal.App.4th 892, 908-912.) But the court cannot change the placement made by federal authorities without federal consent. (*In re Y.M.* (2012) 207 Cal.App.4th 892, 917-919.)

Waiver: Forum inconvenience waived without objection. (*In re S.W.* (2007 148 Cal.App.4th 1501, 1511.)

Standard of review: Independent review of whether the court lacked fundamental (subject matter) jurisdiction. (*In re Angel L.* (2008) 159 Cal.App.4th 1127, 1136.) "We are not bound by the [superior] court's findings regarding subject matter jurisdiction, but rather 'independently reweigh the jurisdictional facts.' " (*In re A.C.* (2005) 130 Cal.App.4th 854, 860.)

Prejudice: Failure to comply with the procedural requirements of the UCCJEA is subject to harmless error analysis under the *Watson* test. (*In re Christian I.* (2014) 224 Cal.App.4th 1088, 1098-1099; *In re C. T.* (2002) 100 Cal.App.4th 101, 111; see *In re Jesusa V.* (2004) 32 Cal.4th 588, 624 ["[w]e typically apply a harmless-error analysis when a statutory mandate is disobeyed, except in a narrow category of circumstances when we deem the error reversible per se"].)