

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL  
State of California

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OPINION	:	No. 80-1004
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of	:	<u>JUNE 5, 1981</u>
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The Honorable Marion J. Woods, Director, Department of Social Services,  
has requested an opinion on a question which we have rephrased as follows:

Does Probate Code section 1543 (formerly § 1440.1) require a “suitability  
report” to be filed in all nonrelative guardianship proceedings or only when an adoption  
petition involving the ward has also been filed?

CONCLUSION

Probate Code section 1543 only requires a “suitability report” to be filed in  
nonrelative guardianship cases where an adoption petition regarding the ward has also been  
filed; in all other nonrelative guardianship cases however, that section requires the filing  
of a report with respect to the proposed guardian of the same character as that required to  
be made with regard to an applicant for foster family home licensure.

## ANALYSIS

This opinion addresses the issue of whether Probate Code section 1543<sup>1</sup> requires a “suitability report” to be filed in all nonrelative guardianship proceedings or only in those proceedings where an adoption petition involving the ward has also been filed. We conclude that while under section 1543 a report is required in all nonrelative guardianship cases, one addressing the “suitability” of the proposed guardian for guardianship is only required in those cases where an adoption petition has also been filed. In all other cases, the local agency designated by the board of supervisors of a county to provide public social services must file a report with respect to the proposed guardian of the same character required to be made with regard to an applicant for foster family home licensure.

In guardianship cases generally, section 1513 requires that a court investigator, probation officer, or domestic relations investigator in the county in which the petition for appointment of a guardian is pending “make an investigation of each case whenever requested by the court (*id.* subd. (I)), and that he “file with the court *a written confidential report*” (*id.*, subd. (b)) which may be considered by the court and is available only to the persons who were served in the proceeding and the persons who have appeared therein. (*Ibid.*) (Compare Civ. Code, § 4602 (custody investigation and reports); and though dated, see generally 35 Cal. Jur. 3d Guardianship, §§ 166–172, pp. 740–748 and *I The California Family Lawyer* (C.E.B. 1961) ch. 16, *passim.*) In *nonrelative* guardianship proceedings, section 1543 (formerly § 1440.1), the subject of this opinion, provides: for the filing of an additional report<sup>2</sup> as follows:

“(a) If the petition as filed or as amended states that an adoption petition has been filed, *a report with respect to the suitability of the proposed guardian for guardianship shall be filed with the Court by the agency investigating the adoption.* In other cases, the local agency designated by the board of supervisors to provide public social services shall file a report with the court *with respect to the proposed guardian of the same character required to be made with regard to an applicant for foster family home licensure.*

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<sup>1</sup> All unidentified statutory references herein are to the Probate Code.

<sup>2</sup> The provisions for a report being filed pursuant to section 1543 are contained in article 3 (of ch. 1 of Pt. 2 of div. 4 of the Prob. Code) which is not applicable, *inter alia*, to guardianship proceedings where the petitioner is a relative of the proposed ward. (§ 1540. subd. (b).) That the report so required is in addition to the one provided for in section 1513 is clear from the history of the latter section. (See fn. 10, *post.*)

“(b) The report filed with the court pursuant to this section is confidential. The report may be considered by the court and shall be made available only to the persons who have been served in the proceeding and the persons who have appeared in the proceeding or their attorneys. The report may be received in evidence upon stipulation of counsel for all such persons who are present at the hearing or, if such person is present at the hearing but is not represented by counsel, upon consent of such person.”

The language of section 1543, subdivision (a) seems clear, and not in need of interpretation. (*People v. Belleci* (1979) 24 Cal. 3d 879, 884; *Solberg v. Superior Court* (1977) 19 Cal. 3d 182, 198; *Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal. 3d 152, 155.) It divides nonrelative guardianship proceedings, to which it only applies (see fn. 2, *ante*), into two categories: (1) those where an adoption petition has been filed (§ 1543, subd. (a), first sentence) and (2) all other cases (*id.*, second sentence) and it speaks with different language of the type of report to be filed in each with different language.

The first sentence mentions the filing of a report to address “the suitability of the proposed guardian for guardianship” by the agency investigating the adoption, a petition for which, involving the ward, has also been filed. This agency would be either the Department of Social Services itself or a county adoption agency licensed by the department to do so pursuant to Welfare and Institutions Code section 16100.<sup>3</sup> The second sentence of the subdivision mentions a report with respect to the proposed guardian “of the same character required to be made with regard to an applicant for foster home licenser,”<sup>4</sup>

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<sup>3</sup> Section 16100 of the Welfare and Institutions Code authorizes the department upon application by a county to license a county agency designated therein to, inter alia, “investigate, examine, and make reports upon petitions for adoption filed in superior court . . . and to perform such other functions in connection with adoption as the department deems necessary. . . .” (Welf. & Inst. Code, § 16100.) At present there are only eight county adoption agencies which have been delegated the responsibility of investigating and making court reports in cases of independent adoptions. (*Directory of Calif. Adoption Agencies* (1980) State of Calif., Health & Welfare Agency, Dept. of Social Services, Pub. 1 (9/80).)

<sup>4</sup> A *foster family home* is defined by section 1502, subdivision (a)(5) of the Health and Safety Code as any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed.” (Health & Saf. Code, § 1502, subd. (a)(5); 22 Cal. Admin. Code, §§ 85023, 85031.) It comes within the definition of a “community care facility” (Health & Saf. Code, § 1502, subd. (a)) and must be licensed as such. (*Id.*, § 1508; 22 Cal. Admin. Code, §§ 85077, 85081.)

Although the Department of Social Services is the primary licensing agency for community care facilities (Health & Saf. Code, § 1509, *cf.* § 1502, subd. (b)), it may delegate its authority by contract with a county, for a county or other public agency to assume specified licensing or

to be filed by the local agency designated by the board of supervisors to provide public social services.<sup>5</sup> Thus, not only is the language used to describe each of the reports required by section 1543 different, but the agencies making them in any one county would not necessarily be the same.<sup>6</sup>

It must be assumed that these differences, found as they are in the same statutory paragraph, were deliberately made and were intended to have a significant effect. (*In re Karpf* (1970) 10 Cal. App. 3d 355, 365; *Charles S. v. Board of Education* (1971) 20 Cal. App. 3d 83, 95; *Fischer v. County of Shasta* (1956) 46 Cal. 2d 771, 776; *cf. Safer v. Superior Court* (1975) 15 Cal. 3d 230, 238; *In re Dees* (1920) 50 Cal. App. 11, 19; *McCarthy v. Board of Fire Commrs.* (1918) 37 Cal. App. 495, 4981. We perceive it to be as follows: While the Legislature intended for a report (in addition to the one contemplated

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approval responsibilities. (*Id.*, § 1511.) The county by ordinance may establish a singular department to perform that delegated function alone or in combination with others. (*Id.*, § 1339.50.) Thus, with respect to foster homes, the licensing agency can be the department licensing office, or “the county welfare department or other public agency which has delegated authority by contract with the Department to license designated categories of community care facilities.” (22 Cal. Admin. Code, 85041.)

<sup>5</sup> Although the Legislature has declared the provision for public social services—i.e., “those activities and functions of state and local government administered or supervised by the [State D]epartment [of Social Services] or the State Department of Health Services and involved in providing aid or services or both, including health care services and medical assistance, to those people of the state, who, because of their economic circumstances or social condition, are in need thereof and may benefit thereby” (Welf. & Inst. Code, § 10051; *cf.* § 10054)—to be “a matter of statewide concern” and has designated the State Department of Social Services as the single state agency with full power to supervise almost every phase of its administration (*Id.*, § 10600, *cf. id.*, § 10054), it has also declared that with certain exceptions, “the administration of public social services in each of the several counties of the state to be a county function and [that] responsibility . . . [therefor] rests upon the boards of supervisors in the respective counties . . .” (*Id.*, § 10800.) To provide for and to carry out this function and responsibility, the Legislature has charged “the board of supervisors of each county. or other agency as may be provided by county charter, [to] establish a county department . . . [as] the county agency for the administration of public social services provided under [the Welfare and Institutions Code] and the problems with which they deal.” (*Ibid.*; see also § 10058 (definition of “county department” as being the county agency designated by the board of supervisors, or by such other authority as may be provided in the county charter, responsible for the administration of public social services).)

<sup>6</sup> Indeed, until amended in 1978 (Stats. 1978. ch. 257. p. 541. § 1) the law formerly required the same character” report to be filed by “the local agency to whom foster family home licensure has been delegated.” (Former § 1440.1; Stats. 1975, ch. 1181, p. 2913, § 2.) But that delegation by the department and assumption by the county of licensing duties was not mandatory, the county’s establishing an agency to provide public social services is (Welf. & Inst. Code, §§ 10800, 10605; compare fn. 3 with fn. 5. *ante.*)

in section 1313) to be filed in all nonrelative guardianship cases, it only meant for a report addressing the ‘suitability’ of the proposed guardian to be filed in those proceedings where an adoption petition involving the proposed ward has also been filed. In other ‘nonrelative’ guardianship cases it believed that a report of foster family home licensure genre with respect to the proposed guardian would suffice.

The requirement in subdivision (a) for a “suitability report” appears as the conclusion or main clause (i.e., the apodosis) of the conditional sentence, “[i]f the petition as filed or as amended states that an adoption petition has been filed, a report with respect to the suitability of the proposed guardian for guardianship shall be filed with the court by the agency investigating the adoption.” By rules of grammar the operation of such a clause is effective only when the condition expressed in the “if” —clause (i.e., the subordinate (adverbial) clause, the conditional clause, or the protasis) is true. (Kittridge & Farley, *An Advanced English Grammar* (Boston: Ginn & Co., 1913), §§ 411–412, pp. 167, 168; cf. provisos, e.g., *McAlpine v. Baumgartner* (1937) 10 Cal. 2d 409. 417; *Dupuy v. Board of Education* (1930) 106 Cal. App. 533, 538; *Livermore v. Waite* (1894) 102 Cal. 113, 121–122; 58 Cal. Jur. 3d, Statutes, § 117; 2A Sutherland, *Statutory Construction*, § 47,08 (4th ed. 1972) p. 82.) Thus the requirement for “a report with respect to the *suitability* of the proposed guardian for guardianship [to] be filed with the court by the agency investigating the adoption” becomes operative only “if” the petition . . . states that an adoption petition has been filed.” Where an adoption petition has not been filed, the requirement for such a suitability report does not attach. Rather, as the subdivision states in its second sentence, a report “with respect of the proposed guardian of the same character required to be made with regard to an applicant for foster family home licensure” is to be filed by the local agency designated by the county board of supervisors to provide public social services. (§ 1543, subd. (a).) Accordingly, from the face of the statute itself we conclude that a “report with respect to the suitability of the petition for guardianship” is not required in all nonrelative guardianship proceedings, but only in those where the proposed guardian states that an adoption petition regarding the ward has also been filed. In other cases a foster-family-home-licensure-like report with respect to the proposed guardian must be filed by the local agency designated to provide public social services. The two reports are not alike and a review of their differences and the functions they serve supports our plain meaning interpretation of the statute by explaining the reasons for the statutory distinction regarding them.

We can safely presume that the Legislature, by using the word “suitability” in describing the type of report to be filed where a petition for adoption was also filed, meant for it to be the same type of report that is required to be made by an agency investigating an independent adoption, for there, in an area dealing with a similar subject,

a study of the “suitability” of a petitioner is also involved.<sup>7</sup> (*Cf. People v. Corey* (1978) 21 Cal. 3d 738, 743; *Hunstock v. Estate Development Corp.* (1943) 22 Cal. 2d 205, 210–211; *Estate of Hoertkorn* (1979) 88 Cal. App. 3d 461, 465–466.) The reasonableness of that presumption is further buttressed by the fact that under the statutory scheme established by section 1513, subdivision (a), the *same agency* (whether it be the department itself or one of the eight licensed county adoption agencies to whom it has delegated the authority (see fn. 3, *ante*)) will be making *both* of the reports with respect to the suitability of the petitioner—one for the adoption proceeding and one for the nonrelative guardianship proceeding.

*Adoption* is a special statutory proceeding (*Adoption of Thevenin* (1961) 189 Cal. App. 2d 245, 251, *Adoption of Pitcher* (1951) 103 Cal. App. 2d 859, 864; *cf.* Code of Civ. Proc., § 231) following the strictures of chapter 2 (§ 221 *et seq.*) of part 3 of division 1 of the Civil Code “by which relations of paternity and affiliation are created and recognized as legally binding between persons not so related by nature or by law.” (*Marshall v. Marshall* (1925) 196 Cal. 761, 765–766.) “In other words, it is a proceeding by which the adopting parent assumes a parental relationship toward the child of another. (*Id.*, at p. 766; emphasis omitted.) (See also Civ. Code, §§ 227 pp. 228, 229.) As has been stated:

“The main purpose of the adoption statutes is the promotion of the welfare of children bereft of the benefits of a home and the care of their real parents, by the legal recognition and regulation of the consummation of the closest conceivable counterpart of the relationship of parent and child.” (32 Cal. Jur. 3d, *Family Law*, § 74, p. 109 (1977 ed).)

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<sup>7</sup> Adoption proceedings are commenced by the filing of a petition in the superior court of the county in which the petition resides (Civ. Code, § 226; *Morrisette v. Superior Court* (1965) 236 Cal. App. 2d 597, 601) upon which filing the clerk of the court must “immediately notify the State Department of Social Sciences . . . in writing of the pendency of the action and any subsequent action taken.” (Civ. Code, § 226.) Upon such notification it becomes the duty of the department or the licensed county adoption agency (see fn. 3, *ante*) to investigate . . . and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition. . . .” (*Id.*, § 226.6.) The *suitability of the petitioner* to make the adoption is clearly a focus of that report. Civil Code section 226.6 continues, “in those cases in which the investigation establishes that there is a *serious question concerning the suitability of the petitioner* or the care provided the child or the availability of the consent to adoption[,] the report shall be filed immediately” (*id.*, § 226.6) and its section 226.8 provides, *inter alia*, that if the clerk of a superior court receives a report in which “the findings . . . are that *the home of the petitioner* is not suitable for the child “ he must immediately refer it to the superior court for review. With similar thrust, the regulations of the department (*cf.* Welf. & Inst. Code, § 10600.1) provide that with respect to independent adoptions “[t]here shall be a study of the petitioners to *determine their suitability as adoptive parents for the child.*” (22 Cal. Admin. Code, § 30689.)

The adoption proceeding is “something more than mere solemnization of a contractual relationship, and . . . there are committed to a court . . . grave judicial functions transcending the immediate desires of [both the] petitioners . . . and of [the] consenting parents.” (*In re Barents* (1950) 99 Cal. App. 2d 748, 754.) Given the nature of what is involved the adoption process is comprehensive. It follows: (a) as many interviews with the adopting parents as necessary (22 Cal. Admin. Code, § 30687); (b) a study in addition to the suitability of the petitioners as adoptive parents, of how placement was made, acceptance of adoption, personal adjustment, marriage, family relationships, understanding the needs of children, plans and opportunities for the child’s social development, religious training, education, health, housing, and financial resources (*id.*, § 30689); (c) a medical report of an examination of each adopting parent made within a year of the filing of the report including serological tests and chest x-rays (*ibid.*); (d) a study of the child which includes his background, his development, his health, including necessary examinations and reports, and his adjustment in the home of the adopting parents (*id.*, § 30691); and (e) information obtained from the parent(s) regarding the child and his background, their plans for the child, and their attitude toward the adoption and consent with as many contacts with them as are necessary (*id.*, § 30693). See also 32 Cal. Jur. 3d, Family Law, §§ 117, 119.) Needless to say, a study of the suitability of the petitioners as adoptive parents plays a crucial role, and as we have seen, the provisions of the Civil Code ensure that such a study will be made. (Civ. Code, §§ 226, 226.6.)

While similar considerations attend the appointment of a nonrelative guardian—i.e., “how to serve most effectively the best interests and temporal, moral, and mental welfare of the child. (*Guardianship of Aviles*, 133 Cal. App. 2d 277, 281; *Guardianship of Walsh*, 100 Cal. App. 2d 194, 196.)” (*Guardianship of Levy*, (1955) 137 Cal. App. 2d 237, 247; see also § 1514, subd. (e)(1)—still the relationship created in a guardianship proceeding is not of the magnitude or of the enduring nature of the one created in adoption proceedings. Although in nonrelative guardianship proceedings a nonrelative is appointed to take care of the person or property of the minor (*cf.*, § 1510, subd. (b); § 1540, subd. (a)), to stand in *loco parentis* (*Brown v. Burbank*, (1883) 64 Cal. 99, 101; *Guardianship of Howard*, (1933) 218 Cal. 607, 610; *Guardianship of Sturges*, (1939) 30 Cal. App. 2d 477, 489–490) the relationship basically involves a contractual undertaking (*Guardianship of Kincaid*, (1898) 120 Cal. 203, 205; *Estate of Clanton*, (1915) 171 Cal. 381, 385) contemplating a “trust” (*ibid.*, *cf.*, § 1510, subd. (b); *cf.*, Fin. Code, § 106). (Compare *In re Barents*, *supra*.) Unlike the status of the relationship created in an adoption proceeding which is not terminated on the death of the parent or the child (*Estate of Jobson*, (1912) 164 Cal. 312, 315–317; *Estate of Mercer*, (1928) 205 Cal. 506, 510) that established in a guardianship proceeding over the person or estate terminates when the ward attains majority or dies (§ 1600, subd. (a)), and that established over the person terminates when

the ward marries. (*Id.*, subd. (b).)<sup>8</sup>

In guardianship proceedings generally, investigation of the petitioner and the filing of a report is left to the discretion of the court. (§ 1513, *supra*, (“whenever requested by the court”).) It is in the nonrelative guardianship proceeding that the Legislature has seen fit to have an additional report filed under section 1543. But even here different considerations attend the cases where an adoption petition involving the ward has also been filed and those in which one has not. In the former situation the stakes, as it were, “are higher” since an adoption is also involved, and a court must be more fully apprised of the factors involved.<sup>9</sup> There a comprehensive report addressing the suitability of the petitioner (proposed guardian) for guardianship would be particularly meet and much of the research and study made by the agency already investigating the adoption could be used by that same agency toward its formulation without serious duplication of effort. The last observation further confirms our conclusion that the Legislature chose to use the term “suitability” in the phrase describing the report to be filed where an adoption proceeding was pending deliberately, and by so doing intended for that report to be similar in character to the “suitability report” filed in the adoption proceeding. The neat congruence of that scheme, however, does not fit the situation of a nonrelative guardianship proceeding where an adoption petition is *not* pending, for there a full scale suitability report is not prepared in any event and the considerations attending appointment of the guardian are not as weighty or the situation as complex.<sup>10</sup> § A less comprehensive report such as that involved

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<sup>8</sup> Termination of the guardianship also can occur whenever a court finds upon petition that it is in the ward’s best interest to terminate the guardianship (§ 1601; compare Civ. Code, § 227b, 227d (statute of limitations in vacating a decree of adoption), but see Civ. Code, div. 1, pt 3, ch. 4, § 232 *et seq.* (minors action to be declared free from custody and control of parents))

<sup>9</sup> Indeed several of the provisions of the Probate Code dealing with guardianships were substantively amended and recodified in 1979, operative January 1, 1981 (Stats. 1979, ch. 726, §§ 3, 4, pp. 2479, 2575) following recommendation by the California Law Revisions Commission (14 Cal. L Revision Comm. Repts., pp 505–998 (1978)) to ensure that a court hearing a guardianship case would be so alerted. Thus, for example, revisions (§ 1510, subd. (f), § 1512, § 1541, subd. (b)) expanded on prior law (former § 1440, subd. (c)(2)) and formalized existing guardianship practice with regard to requiring a petition for guardianship to disclose any adoption, or other proceeding (e.g., juvenile court, marriage dissolution, domestic relations, custody) affecting the proposed ward. (14 Cal. L Revision Comm. Repts., *supra*, at pp. 525, 627 (comment to § 1510) 630 (comment to § 15123)). Previous experience had seen cases arise where different proceedings affecting a minor would proceed independently, often at cross purposes. (See B. M. Bodenheimer, The Multiplicity of Child Custody-Proceedings Problems of California Law, 23 Stan. L. Rev. 703 (especially at pp. 715–718 (Apr 1971)).)

<sup>10</sup> We must not forget that in guardianship proceedings generally, the requirement for an investigation and a report is left to the discretion of the court (*Terzian v. Superior Court* (1970) 10 Cal. App. 3d 286, 291.). Section 1513 of the Probate Code requires an investigation of the case to



in an application for foster home licensure would suffice. Section 1520 of the Health and Safety Code requires an application for foster family home licensure to be filed with the State Department of Social Services (*cf.*, *id.*, § 1502, subd. (b)) pursuant to regulations, setting forth; evidence satisfactory to that department that the applicant is of “reputable and responsible character” (*id.*, subd. (a)); evidence satisfactory to that department of the ability of the applicant to comply with the law and regulations (*id.*, subd. (b)); and (c) such other information as that department requires (*id.*, subd. (c)). The department’s regulations require an application for foster family licensure to contain: (1) The name, address and

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be made by “the court investigator, probation officer, or domestic relations investigator whenever requested by the court” (*id.*, subd. (a), *cf.*, Civ. Code, § 4602 (requirement for the filing of a report in custody award cases ‘when so directed by the court’)) and for a written confidential report to be filed by him (*id.*, subd. (b)). It also provides that “when the court directs that an investigation and report be made,” the court shall make an inquiry into the financial condition of (1) the parent(s) or other persons charged with the support and maintenance of the proposed ward and (2) the estate of the proposed ward for the purpose of defraying the expense of the investigation and the report. (*Id.*, subd. (c).) In fact, prior to January 1, 1981, the requirements were even less stringent. Former Probate Code section 1443 provided for a report to be filed only by “the probation officer in the county in which the petition for appointment of guardian (was] pending” and it excepted from that reporting requirement the case “when an agency [was] obligated to file a report pursuant to Section 1440.1, [the precursor of Section 1543].” The reasons for the two major changes made in the adoption of section 1513 were succinctly summarized by the California Law Revision Commission thus.

Subdivision (a) of Section 1513 continues the substance of former Section 1443 with two modifications:

“(1) The former law has been expanded in Section 1513 to permit investigations by the court investigator and the domestic relations investigator. The court investigator makes other investigations under this division and it is appropriate that this officer be included among the persons authorized to make investigations under Section 1513. The addition of the domestic relations investigator to Section 1513 is consistent with Civil Code section 4602, which authorizes investigations to be made in child custody matters by the domestic relations investigator as well as by the probation officer.

“(2) Section 1513 does not continue the provision of former law that precluded an investigation and report when a report was required under former Section 1440.1 (continued in Section 1543) This provision of former law was unduly rigid and has not been continued because it would preclude the court, for example, from obtaining a report under Section 1513 in a case where the agency obligated to file the report under Section 1543 has such an interest in the matter that the agency’s report may not be fair and objective.”

(14 Cal. L. Revision Comm. Repts., *supra*, at p. 631, *cf. id.*, at pp. 526–527, see also Bodenheimer, *The Multiplicity of Child Custody Proceedings—Problems of California Law*, *supra*, 23 Stan. L. Rev. at pp. 717–718 and *Terzian v. Superior Court* (1970) 10 Cal. App. 3d 286.)

birth date of the applicant; (2) the name, sex and birth date of all persons residing in the home; (3) the proposed number and age range of children to be served; (4) the names and addresses of three character references; (5) a statement as to whether the applicant has ever operated a licensed facility before and the reasons for termination; (6) a statement regarding criminal conviction record and completed fingerprint card; (7) upon request, a physician's statement concerning the applicant's health; (8) a TB test verifying freedom from active tuberculosis; (9) a statement that the applicant will accept responsibility to comply with the applicable sections of the Health and Safety Code and regulations concerning licensing and fire safety; (10) evidence satisfactory to the licensing agency that the applicant's income from employment or other sources, other than foster care payments, is sufficient to meet the applicant's family needs; (11) a sketch of the home which gives dimensions and describes the use of all rooms; (12) a disaster plan and (13) such other information as may be required by the department for the purpose of administering and enforcing the California Community Care Act. (22 Cal. Admin. Code, § 85085, subd. (b).) A home visit is also required, as well as any required visit for fire inspection. (*Id.*, § 85087, subd. (a).) In certain cases a fingerprint card must also be submitted (*id.*, § 85089) as well as other information relating to a criminal record and rehabilitation. (*Id.*, § 85091.) A license is issued if "on the basis of the home visit and the information submitted by the applicant, the applicant meets the standards as specified in the Community Care Facilities Act [i.e., Health & Saf. Code, pt. 3, div. 2, ch. 3, 51500 *et seq.*] and [the Department of Social Services] regulations." (22 Cal. Admin. Code, § 85093(a).)

An investigation of these areas, although less far reaching than those scrutinized in adoption proceedings, can nonetheless satisfy the needs of the nonrelative guardianship proceedings where an adoption is not involved. Requiring a full "suitability" investigation and report on the proposed guardian in these circumstances would not be essential and therefore would constitute an uncalled for excess. In this vein we would also observe that the county agency preparing the report "of the same character required to be made of an applicant for foster home licensure" would more likely be conversant with the requirements of the latter than with the intricacies involved in a "suitability" study of a petitioner (proposed guardian) for guardianship as were adoption is involved. The Legislature apparently has taken this into account and, as with that "suitability" report requirement, has again avoided a needless expenditure of effort and resources.

There is no question the Legislature has mandated that a report be filed in all nonrelative guardianship cases pursuant to section 1543, subdivision (a). It has, however, distinguished in that subdivision between those proceedings where an adoption petition has also been filed and those where one has not, and it has carefully used different phraseology with established meanings to describe the type of report required for each of those situations. While it may be purely semantical if the term "suitability" is used in a generic sense, still it is a "term of art" with a technical meaning in the discipline, and believing the

Legislature to have used it as such (Civ. Code, § 13; *cf.* 5106; Civ. Code, § 1645; Code of Civ. Proc., § 16) we conclude that Probate Code section 1543 only mandates the filing of a “suitability” report in nonrelative guardianship proceedings where an adoption petition involving the ward has also been filed.

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