

AMENDED IN ASSEMBLY MAY 27, 2003

AMENDED IN ASSEMBLY MAY 5, 2003

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Steinberg
(Coauthor: Senator Kuehl)

February 14, 2003

An act to amend Sections 349, ~~358.1~~, 366, 366.1, 366.21, 366.22, 366.26, 366.3, ~~10609.4, 16500.1, and 16508~~ 391, 10609.4, 16206, 16500.1, and 16501.1 of, and to add Section 362.05 to, the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as amended, Steinberg. Dependent children.

(1) Existing law provides that children may become dependent children of the juvenile court on the basis of abuse or neglect. Existing law requires social workers and other specified persons or agencies to prepare social studies, reports, evaluations, assessments, and supplemental reports for the juvenile court containing specified information regarding children who are, or who may become, dependent children of the juvenile court. Existing law also requires county welfare departments to provide or arrange for permanent placement services for children who cannot safely live with their parents and are not likely to return to their own homes.

Existing law requires the court to review the status of every child in foster care at least every 6 months, to determine specified facts

concerning the child, and to consider permanency planning options regarding a child who is in long-term foster care, as specified. Existing law also authorizes the court to terminate parental rights in certain cases. Existing law also requires social workers and the clerk of the court to send notice of hearings in the juvenile court concerning a child who is, or who may become, a dependent child of the court to that child if he or she is 10 years of age or older. *Existing law further requires the county welfare department to submit a report at any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, verifying that specified information and services have been provided to the dependent child.*

The

~~This bill would require that the social studies, reports, evaluations and assessments, and the case plans for permanent placement services, described above include information regarding the court to determine whether the placing agency has made reasonable efforts to maintain a child's relationships with individuals who are important to the a child who is 10 years of age or older who is placed with a nonrelative, and make any order to ensure that actions are taken to maintain those relationships. The~~ *In specified circumstances, the bill would require social workers and certain agencies, as specified, to make efforts to identify those persons and to make efforts to maintain those relationships. If a court orders a hearing to terminate parental rights, the bill would require the court to make any appropriate order to enable the child to maintain those relationships. The bill would require social workers and those agencies to ask every child who is 10 years of age or older to identify those persons, consistent with the child's best interest. The bill would also authorize them to ask any child who is younger than 10 years of age to identify those persons. The bill would require that certain assessments include a description of efforts made to identify a prospective adoptive parent or legal guardian. By imposing new duties on local employees, the bill would create a state-mandated local program.*

The

This bill would also revise the permanency planning options a court must consider regarding a child who is in foster care.

The

This bill would require that the notice of a hearing in the juvenile court that is sent to a child who is 10 years of age or older state that the child has the right to attend the hearing. The bill would also require the



court to determine whether a minor who is 10 years of age or older and who is not present at the hearing was properly notified of his or her right to attend the hearing and to inquire as to the reason why the child is not present.

This bill would further require the county welfare department to provide information to a dependent child who has reached the age of majority on maintaining relationships with individuals who are important to the child, and to verify in the report submitted to the court that this information has been provided.

(2) Existing law encourages the development of approaches to child protection to achieve certain goals, including the goal of ensuring that children leaving the foster care system have support within their communities.

This bill would additionally require the state to encourage the development of approaches to child protection that ensure that no child leaves foster care without a lifelong connection to a committed adult. The bill would provide that every dependent child shall be entitled to participate in age appropriate extracurricular, enrichment, and social activities, and that state regulations and policies may not prevent or create barriers to participation in those activities.

(3) Existing federal law establishes the Independent Living Program for foster youth to be administered by counties with federal and state funds.

Existing law requires each county department of social services to include in its annual Independent Living Program report an accounting of federal and state funds allocated for implementation of the program. Existing law provides that expenditures must be related to the specific purposes of the program and provides a descriptive list of the purposes the program may include. Those purposes include providing each participant in the program with a written transitional independent living plan that will be incorporated in his or her case plan.

This bill would revise the list of permissible program purposes to include convening persons who have been identified by the participant as important to him or her for the purpose of providing information to be included in his or her written transitional independent living plan.

(4) *Existing law establishes the Child Welfare Training Program to provide training to meet the needs of county child protective social workers.*



This bill would require this training to include the importance of maintaining specified child relationships with important individuals and methods to identify those individuals.

(5) Existing law provides that the foundation and central unifying tool in child welfare services is the case plan, and specifies the contents thereof.

This bill would require a case plan for a child 16 years of age or older, when appropriate, to include a written description of programs and services to assist the child in independent living, and require the case plan to be developed with the child and other persons who are important to the child. The bill would also require specified case plans to contain information about individuals who are important to a child. The bill would require social workers to make an effort to identify those individuals.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 349 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 349. A minor who is the subject of a juvenile court hearing
- 4 and any person entitled to notice of the hearing under the
- 5 provisions of Sections 290.1 and 290.2, is entitled to be present at
- 6 the hearing. The minor and any person who is entitled to that notice
- 7 has the right to be represented at the hearing by counsel of his or
- 8 her own choice. If the minor is 10 years of age or older and he or
- 9 she is not present at the hearing, the court shall determine whether



1 the minor was properly notified of his or her right to attend the
2 hearing.

3 ~~SEC. 2.—Section 358.1 of the Welfare and Institutions Code is~~
4 ~~amended to read:~~

5 ~~358.1. Each social study or evaluation made by a social~~
6 ~~worker or child advocate appointed by the court, required to be~~
7 ~~received in evidence pursuant to Section 358, shall include, but not~~
8 ~~be limited to, a factual discussion of each of the following subjects:~~

9 ~~(a) Whether the county welfare department or social worker~~
10 ~~has considered child protective services, as defined in Chapter 5~~
11 ~~(commencing with Section 16500) of Part 4 of Division 9, as a~~
12 ~~possible solution to the problems at hand, and has offered these~~
13 ~~services to qualified parents if appropriate under the~~
14 ~~circumstances.~~

15 ~~(b) What plan, if any, for return of the child to his or her parents~~
16 ~~and for achieving legal permanency for the child if efforts to~~
17 ~~reunify fail, is recommended to the court by the county welfare~~
18 ~~department or probation officer.~~

19 ~~(c) Whether the best interests of the child will be served by~~
20 ~~granting reasonable visitation rights with the child to his or her~~
21 ~~grandparents, in order to maintain and strengthen the child's~~
22 ~~family relationships.~~

23 ~~(d) (1) Whether the child has siblings under the court's~~
24 ~~jurisdiction, and, if any siblings exist, all of the following:~~

25 ~~(A) The nature of the relationship between the child and his or~~
26 ~~her siblings.~~

27 ~~(B) The appropriateness of developing or maintaining the~~
28 ~~sibling relationships pursuant to Section 16002.~~

29 ~~(C) If the siblings are not placed together in the same home,~~
30 ~~why the siblings are not placed together and what efforts are being~~
31 ~~made to place the siblings together, or why those efforts are not~~
32 ~~appropriate.~~

33 ~~(D) If the siblings are not placed together, the frequency and~~
34 ~~nature of the visits between siblings.~~

35 ~~(E) The impact of the sibling relationships on the child's~~
36 ~~placement and planning for legal permanency.~~

37 ~~(2) The factual discussion shall include a discussion of~~
38 ~~indicators of the nature of the child's sibling relationships,~~
39 ~~including, but not limited to, whether the siblings were raised~~
40 ~~together in the same home, whether the siblings have shared~~



1 significant common experiences or have existing close and strong
2 bonds, whether either sibling expresses a desire to visit or live with
3 his or her sibling, as applicable, and whether ongoing contact is in
4 the child's best emotional interest.

5 ~~(e) Whether the child has relationships with individuals other
6 than the child's siblings that are important to the child and actions
7 taken to maintain those relationships. The social worker shall ask
8 every child who is 10 years of age or older to identify any
9 individuals who are important to the child, consistent with the
10 child's best interest, and may ask any child who is younger than 10
11 years of age to provide that information, as appropriate. The social
12 worker shall make efforts to identify other individuals who are
13 important to the child.~~

14 ~~(f) If the parent or guardian is unwilling or unable to participate
15 in making an educational decision for his or her child, or if other
16 circumstances exist that compromise the ability of the parent or
17 guardian to make educational decisions for the child, the county
18 welfare department or social worker shall consider whether the
19 right of the parent or guardian to make educational decisions for
20 the child should be limited. If the study or evaluation makes that
21 recommendation, it shall identify whether there is a responsible
22 adult available to make educational decisions for the child
23 pursuant to Section 361.~~

24 ~~(g) Whether the child appears to be a person who is eligible to
25 be considered for further court action to free the child from
26 parental custody and control.~~

27 ~~(h) Whether the parent has been advised of his or her option to
28 participate in adoption planning, including the option to enter into
29 a postadoption contact agreement as described in Section 8714.7
30 of the Family Code, and to voluntarily relinquish the child for
31 adoption if an adoption agency is willing to accept the
32 relinquishment.~~

33 ~~(i) The appropriateness of any relative placement pursuant to
34 Section 361.3; however, this consideration may not be cause for
35 continuance of the dispositional hearing.~~

36 ~~SEC. 3.~~

37 *SEC. 2.* Section 362.05 is added to the Welfare and
38 Institutions Code, to read:

39 362.05. Every child adjudged a dependent child of the
40 juvenile court shall be entitled to participate in age appropriate



1 extracurricular, enrichment, and social activities. No state
2 regulation or policy may prevent or create barriers to participation
3 in those activities. Caregivers shall use a prudent parent standard
4 in determining whether to give permission for a child residing in
5 foster care to participate in extracurricular, enrichment, and social
6 activities. The caretaker shall take reasonable steps to determine
7 the appropriateness of the activity in consideration of the child's
8 age, maturity, and developmental level.

9 ~~SEC. 4.~~

10 *SEC. 3.* Section 366 of the Welfare and Institutions Code is
11 amended to read:

12 366. (a) (1) The status of every dependent child in foster
13 care shall be reviewed periodically as determined by the court but
14 no less frequently than once every six months, as calculated from
15 the date of the original dispositional hearing, until the hearing
16 described in Section 366.26 is completed. The court shall consider
17 the safety of the child and shall determine all of the following:

18 (A) The continuing necessity for and appropriateness of the
19 placement.

20 (B) The extent of the agency's compliance with the case plan
21 in making reasonable efforts to return the child to a safe home and
22 to complete any steps necessary to finalize the permanent
23 placement of the child, including efforts to maintain relationships
24 ~~between the child and individuals who are important to the child.~~
25 *between a child who is 10 years of age or older who is placed with*
26 *a nonrelative, and individuals other than the child's siblings who*
27 *are important to the child, consistent with the child's best interests.*

28 (C) Whether there should be any limitation on the right of the
29 parent or guardian to make educational decisions for the child.
30 That limitation shall be specifically addressed in the court order
31 and may not exceed those necessary to protect the child. Whenever
32 the court specifically limits the right of the parent or guardian to
33 make educational decisions for the child, the court shall at the same
34 time appoint a responsible adult to make educational decisions for
35 the child pursuant to Section 361.

36 (D) (i) Whether the child has other siblings under the court's
37 jurisdiction, and, if any siblings exist, all of the following:

38 (I) The nature of the relationship between the child and his or
39 her siblings.



- 1 (II) The appropriateness of developing or maintaining the
- 2 sibling relationships pursuant to Section 16002.
- 3 (III) If the siblings are not placed together in the same home,
- 4 why the siblings are not placed together and what efforts are being
- 5 made to place the siblings together, or why those efforts are not
- 6 appropriate.
- 7 (IV) If the siblings are not placed together, the frequency and
- 8 nature of the visits between siblings.
- 9 (V) The impact of the sibling relationships on the child's
- 10 placement and planning for legal permanence.
- 11 (VI) The continuing need to suspend sibling interaction, if
- 12 applicable, pursuant to subdivision (c) of Section 16002.
- 13 (ii) The factors the court may consider in making a
- 14 determination regarding the nature of the child's sibling
- 15 relationships may include, but are not limited to, whether the
- 16 siblings were raised together in the same home, whether the
- 17 siblings have shared significant common experiences or have
- 18 existing close and strong bonds, whether either sibling expresses
- 19 a desire to visit or live with his or her sibling, as applicable, and
- 20 whether ongoing contact is in the child's best emotional interests.
- 21 (E) The extent of progress which has been made toward
- 22 alleviating or mitigating the causes necessitating placement in
- 23 foster care.
- 24 (2) The court shall project a likely date by which the child may
- 25 be returned to and safely maintained in the home or placed for
- 26 adoption, legal guardianship, or in another planned permanent
- 27 living arrangement.
- 28 (b) Subsequent to the hearing, periodic reviews of each child
- 29 in foster care shall be conducted pursuant to the requirements of
- 30 Sections 366.3 and 16503.
- 31 (c) If the child has been placed out of state, each review
- 32 described in subdivision (a) and any reviews conducted pursuant
- 33 to Sections 366.3 and 16503 shall also address whether the
- 34 out-of-state placement continues to be the most appropriate
- 35 placement selection and in the best interests of the child.
- 36 (d) A child may not be placed in an out-of-state group home,
- 37 or remain in an out-of-state group home, unless the group home is
- 38 in compliance with Section 7911.1 of the Family Code.
- 39 ~~SEC. 5.~~



1 *SEC. 4.* Section 366.1 of the Welfare and Institutions Code is
2 amended to read:

3 366.1. Each supplemental report required to be filed pursuant
4 to Section 366 shall include, but not be limited to, a factual
5 discussion of each of the following subjects:

6 (a) Whether the county welfare department social worker has
7 considered child protective services, as defined in Chapter 5
8 (commencing with Section 16500) of Part 4 of Division 9, as a
9 possible solution to the problems at hand, and has offered those
10 services to qualified parents if appropriate under the
11 circumstances.

12 (b) What plan, if any, for the return and maintenance of the
13 child in a safe home is recommended to the court by the county
14 welfare department social worker.

15 (c) Whether the subject child appears to be a person who is
16 eligible to be considered for further court action to free the child
17 from parental custody and control.

18 (d) What actions, if any, have been taken by the parent to
19 correct the problems that caused the child to be made a dependent
20 child of the court.

21 (e) If the parent or guardian is unwilling or unable to participate
22 in making an educational decision for his or her child, or if other
23 circumstances exist that compromise the ability of the parent or
24 guardian to make educational decisions for the child, the county
25 welfare department or social worker shall consider whether the
26 right of the parent or guardian to make educational decisions for
27 the child should be limited. If the supplemental report makes that
28 recommendation, the report shall identify whether there is a
29 responsible adult available to make educational decisions for the
30 child pursuant to Section 361.

31 (f) (1) Whether the child has any siblings under the court's
32 jurisdiction, and, if any siblings exist, all of the following:

33 (A) The nature of the relationship between the child and his or
34 her siblings.

35 (B) The appropriateness of developing or maintaining the
36 sibling relationships pursuant to Section 16002.

37 (C) If the siblings are not placed together in the same home,
38 why the siblings are not placed together and what efforts are being
39 made to place the siblings together, or why those efforts are not
40 appropriate.



1 (D) If the siblings are not placed together, the frequency and
2 nature of the visits between siblings.

3 (E) The impact of the sibling relationships on the child's
4 placement and planning for legal permanence.

5 (2) The factual discussion shall include a discussion of
6 indicators of the nature of the child's sibling relationships
7 including, but not limited to, whether the siblings were raised
8 together in the same home, whether the siblings have shared
9 significant common experiences or have existing close and strong
10 bonds, whether either sibling expresses a desire to visit or live with
11 his or her sibling, as applicable, and whether ongoing contact is in
12 the child's best emotional interests.

13 (g) Whether ~~the child~~ *a child who is 10 years of age or older*
14 *who is placed with a nonrelative* has relationships with individuals
15 other than the child's siblings that are important to the child,
16 *consistent with the child's best interests*, and actions taken to
17 maintain those relationships. The social worker shall ask every
18 child who is 10 years of age or older *who is placed with a*
19 *nonrelative* to identify any individuals *other than the child's*
20 *siblings* who are important to the child, consistent with the child's
21 best interest, and may ask any child who is younger than 10 years
22 of age to provide that information, as appropriate. The social
23 worker shall make efforts to identify other individuals who are
24 important to the child, *consistent with the child's best interests*.

25 ~~SEC. 6.~~

26 *SEC. 5.* Section 366.21 of the Welfare and Institutions Code
27 is amended to read:

28 366.21. (a) Every hearing conducted by the juvenile court
29 reviewing the status of a dependent child shall be placed on the
30 appearance calendar. The court shall advise all persons present at
31 the hearing of the date of the future hearing and of their right to be
32 present and represented by counsel.

33 (b) Except as provided in Section 366.23 and subdivision (a) of
34 Section 366.3, notice of the hearing shall be mailed by the social
35 worker to the same persons as in the original proceeding, including
36 the child, to the child's parent or legal guardian, to the foster
37 parents, relative caregivers, community care facility, or foster
38 family agency having physical custody of the child in the case of
39 a child removed from the physical custody of his or her parent or
40 legal guardian, and to the counsel of record if the counsel of record



1 was not present at the time that the hearing was set by the court,
2 by first-class mail addressed to the last known address of the
3 person to be notified, or shall be personally served on those
4 persons, not earlier than 30 days nor later than 15 days preceding
5 the date to which the hearing was continued. Service of a copy of
6 the notice personally or by certified mail return receipt requested,
7 or any other form of actual notice, is equivalent to service by
8 first-class mail.

9 The notice shall contain a statement regarding the nature of the
10 hearing to be held and any change in the custody or status of the
11 child being recommended by the supervising agency. The notice
12 to the child shall state that the child has the right to attend and
13 participate in the hearing. The notice to the foster parent, relative
14 caregiver, or a certified foster parent who has been approved for
15 adoption by the State Department of Social Services when it is
16 acting as an adoption agency in counties that are not served by a
17 county adoption agency or by a licensed county adoption agency
18 shall indicate that the foster parent, relative caregiver, or a certified
19 foster parent who has been approved for adoption by the State
20 Department of Social Services when it is acting as an adoption
21 agency in counties that are not served by a county adoption agency
22 or by a licensed county adoption agency may attend all hearings
23 or may submit to the court in writing any information he or she
24 deems relevant.

25 (c) At least 10 calendar days prior to the hearing, the social
26 worker shall file a supplemental report with the court regarding the
27 services provided or offered to the parent or legal guardian to
28 enable him or her to assume custody and the efforts made to
29 achieve legal permanence for the child if efforts to reunify fail,
30 including, but not limited to, efforts to maintain relationships
31 between the child and individuals who are important to the child,
32 the progress made, and, where relevant, the prognosis for return
33 of the child to the physical custody of his or her parent or legal
34 guardian, and shall make his or her recommendation for
35 disposition. If the child is a member of a sibling group described
36 in paragraph (3) of subdivision (a) of Section 361.5, the report and
37 recommendation may also take into account those factors
38 described in subdivision (e) relating to the child's sibling group.
39 If the recommendation is not to return the child to a parent or legal
40 guardian, the report shall specify why the return of the child would



1 be detrimental to the child. The social worker shall provide the
2 parent or legal guardian and counsel for the child with a copy of
3 the report, including his or her recommendation for disposition, at
4 least 10 calendar days prior to the hearing. In the case of a child
5 removed from the physical custody of his or her parent or legal
6 guardian, the social worker shall, at least 10 calendar days prior to
7 the hearing, provide a summary of his or her recommendation for
8 disposition to any court-appointed child advocate, and any foster
9 parents, relative caregivers, certified foster parents who have been
10 approved for adoption by the State Department of Social Services
11 when it is acting as an adoption agency in counties that are not
12 served by a county adoption agency or by a licensed county
13 adoption agency, community care facility, or foster family agency
14 having the physical custody of the child.

15 (d) Prior to any hearing involving a child in the physical
16 custody of a community care facility or a foster family agency that
17 may result in the return of the child to the physical custody of his
18 or her parent or legal guardian, or in adoption or the creation of a
19 legal guardianship, the facility or agency shall file with the court
20 a report containing its recommendation for disposition. Prior to the
21 hearing involving a child in the physical custody of a foster parent,
22 a relative caregiver, or a certified foster parent who has been
23 approved for adoption by the State Department of Social Services
24 when it is acting as an adoption agency or by a licensed adoption
25 agency, the foster parent, relative caregiver, or the certified foster
26 parent who has been approved for adoption by the State
27 Department of Social Services when it is acting as an adoption
28 agency in counties that are not served by a county adoption agency
29 or by a licensed county adoption agency, may file with the court
30 a report containing his or her recommendation for disposition. The
31 court shall consider the report and recommendation filed pursuant
32 to this subdivision prior to determining any disposition.

33 (e) At the review hearing held six months after the initial
34 dispositional hearing, the court shall order the return of the child
35 to the physical custody of his or her parent or legal guardian unless
36 the court finds, by a preponderance of the evidence, that the return
37 of the child to his or her parent or legal guardian would create a
38 substantial risk of detriment to the safety, protection, or physical
39 or emotional well-being of the child. The social worker shall have
40 the burden of establishing that detriment. The failure of the parent



1 or legal guardian to participate regularly and make substantive
2 progress in court-ordered treatment programs shall be prima facie
3 evidence that return would be detrimental. In making its
4 determination, the court shall review and consider the social
5 worker's report and recommendations and the report and
6 recommendations of any child advocate appointed pursuant to
7 Section 356.5; and shall consider the efforts or progress, or both,
8 demonstrated by the parent or legal guardian and the extent to
9 which he or she availed himself or herself of services provided.

10 Whether or not the child is returned to a parent or legal guardian,
11 the court shall specify the factual basis for its conclusion that the
12 return would be detrimental or would not be detrimental. The court
13 also shall make appropriate findings pursuant to subdivision (a) of
14 Section 366; and, where relevant, shall order any additional
15 services reasonably believed to facilitate the return of the child to
16 the custody of his or her parent or legal guardian. The court shall
17 also inform the parent or legal guardian that if the child cannot be
18 returned home by the 12-month permanency hearing, a proceeding
19 pursuant to Section 366.26 may be instituted. This section does not
20 apply in a case where, pursuant to Section 361.5, the court has
21 ordered that reunification services shall not be provided.

22 If the child was under the age of three years on the date of the
23 initial removal, or is a member of a sibling group described in
24 paragraph (3) of subdivision (a) of Section 361.5, and the court
25 finds by clear and convincing evidence that the parent failed to
26 participate regularly and make substantive progress in a
27 court-ordered treatment plan, the court may schedule a hearing
28 pursuant to Section 366.26 within 120 days. If, however, the court
29 finds there is a substantial probability that the child, who was under
30 the age of three years on the date of initial removal or is a member
31 of a sibling group described in paragraph (3) of subdivision (a) of
32 Section 361.5, may be returned to his or her parent or legal
33 guardian within six months or that reasonable services have not
34 been provided, the court shall continue the case to the 12-month
35 permanency hearing.

36 For the purpose of placing and maintaining a sibling group
37 together in a permanent home, the court, in making its
38 determination to schedule a hearing pursuant to Section 366.26 for
39 some or all members of a sibling group, as described in paragraph
40 (3) of subdivision (a) of Section 361.5, shall review and consider



1 the social worker's report and recommendations. Factors the
2 report shall address, and the court shall consider, may include, but
3 need not be limited to, whether the sibling group was removed
4 from parental care as a group, the closeness and strength of the
5 sibling bond, the ages of the siblings, the appropriateness of
6 maintaining the sibling group together, the detriment to the child
7 if sibling ties are not maintained, the likelihood of finding a
8 permanent home for the sibling group, whether the sibling group
9 is currently placed together in a preadoptive home or has a
10 concurrent plan goal of legal permanency in the same home, the
11 wishes of each child whose age and physical and emotional
12 condition permits a meaningful response, and the best interest of
13 each child in the sibling group. The court shall specify the factual
14 basis for its finding that it is in the best interest of each child to
15 schedule a hearing pursuant to Section 366.26 in 120 days for some
16 or all of the members of the sibling group.

17 If the child was removed initially under subdivision (g) of
18 Section 300 and the court finds by clear and convincing evidence
19 that the whereabouts of the parent are still unknown, or the parent
20 has failed to contact and visit the child, the court may schedule a
21 hearing pursuant to Section 366.26 within 120 days. If the court
22 finds by clear and convincing evidence that the parent has been
23 convicted of a felony indicating parental unfitness, the court may
24 schedule a hearing pursuant to Section 366.26 within 120 days.

25 If the child had been placed under court supervision with a
26 previously noncustodial parent pursuant to Section 361.2, the
27 court shall determine whether supervision is still necessary. The
28 court may terminate supervision and transfer permanent custody
29 to that parent, as provided for by paragraph (1) of subdivision (b)
30 of Section 361.2.

31 In all other cases, the court shall direct that any reunification
32 services previously ordered shall continue to be offered to the
33 parent or legal guardian pursuant to the time periods set forth in
34 subdivision (a) of Section 361.5, provided that the court may
35 modify the terms and conditions of those services.

36 If the child is not returned to his or her parent or legal guardian,
37 the court shall determine whether reasonable services that were
38 designed to aid the parent or legal guardian in overcoming the
39 problems that led to the initial removal and the continued custody
40 of the child have been provided or offered to the parent or legal



1 guardian. The court shall order that those services be initiated,
2 continued, or terminated.

3 (f) The permanency hearing shall be held no later than 12
4 months after the date the child entered foster care, as that date is
5 determined pursuant to subdivision (a) of Section 361.5. At the
6 permanency hearing, the court shall determine the permanent plan
7 for the child, which shall include a determination of whether the
8 child will be returned to the child's home and, if so, when, within
9 the time limits of subdivision (a) of Section 361.5. The court shall
10 order the return of the child to the physical custody of his or her
11 parent or legal guardian unless the court finds, by a preponderance
12 of the evidence, that the return of the child to his or her parent or
13 legal guardian would create a substantial risk of detriment to the
14 safety, protection, or physical or emotional well-being of the child.
15 The social worker shall have the burden of establishing that
16 detriment. The court shall also determine whether reasonable
17 services that were designed to aid the parent or legal guardian to
18 overcome the problems that led to the initial removal and
19 continued custody of the child have been provided or offered to the
20 parent or legal guardian. For each youth 16 years of age and older,
21 the court shall also determine whether services have been made
22 available to assist him or her in making the transition from foster
23 care to independent living. The failure of the parent or legal
24 guardian to participate regularly and make substantive progress in
25 court-ordered treatment programs shall be prima facie evidence
26 that return would be detrimental. In making its determination, the
27 court shall review and consider the social worker's report and
28 recommendations and the report and recommendations of any
29 child advocate appointed pursuant to Section 356.5, shall consider
30 the efforts or progress, or both, demonstrated by the parent or legal
31 guardian and the extent to which he or she availed himself or
32 herself of services provided, and shall make appropriate findings
33 pursuant to subdivision (a) of Section 366.

34 Whether or not the child is returned to his or her parent or legal
35 guardian, the court shall specify the factual basis for its decision.
36 If the child is not returned to a parent or legal guardian, the court
37 shall specify the factual basis for its conclusion that the return
38 would be detrimental. The court also shall make a finding pursuant
39 to subdivision (a) of Section 366.



1 (g) If the time period in which the court-ordered services were
2 provided has met or exceeded the time period set forth in
3 paragraph (1), (2), or (3) of subdivision (a) of Section 361.5, as
4 appropriate, and a child is not returned to the custody of a parent
5 or legal guardian at the permanency hearing held pursuant to
6 subdivision (f), the court shall do one of the following:

7 (1) Continue the case for up to six months for a permanency
8 review hearing, provided that the hearing shall occur within 18
9 months of the date the child was originally taken from the physical
10 custody of his or her parent or legal guardian. The court shall
11 continue the case only if it finds that there is a substantial
12 probability that the child will be returned to the physical custody
13 of his or her parent or legal guardian and safely maintained in the
14 home within the extended period of time or that reasonable
15 services have not been provided to the parent or legal guardian. For
16 the purposes of this section, in order to find a substantial
17 probability that the child will be returned to the physical custody
18 of his or her parent or legal guardian and safely maintained in the
19 home within the extended period of time, the court shall be
20 required to find all of the following:

21 (A) That the parent or legal guardian has consistently and
22 regularly contacted and visited with the child.

23 (B) That the parent or legal guardian has made significant
24 progress in resolving problems that led to the child's removal from
25 the home.

26 (C) The parent or legal guardian has demonstrated the capacity
27 and ability both to complete the objectives of his or her treatment
28 plan and to provide for the child's safety, protection, physical and
29 emotional well-being, and special needs.

30 For purposes of this subdivision, the court's decision to continue
31 the case based on a finding or substantial probability that the child
32 will be returned to the physical custody of his or her parent or legal
33 guardian is a compelling reason for determining that a hearing held
34 pursuant to Section 366.26 is not in the best interests of the child.

35 The court shall inform the parent or legal guardian that if the
36 child cannot be returned home by the next permanency review
37 hearing, a proceeding pursuant to Section 366.36 may be
38 instituted. The court shall not order that a hearing pursuant to
39 Section 366.26 be held unless there is clear and convincing



1 evidence that reasonable services have been provided or offered to
2 the parent or legal guardian.

3 (2) Order that a hearing be held within 120 days, pursuant to
4 Section 366.26, but only if the court does not continue the case to
5 the permanency planning review hearing and there is clear and
6 convincing evidence that reasonable services have been provided
7 or offered to the parents or legal guardians.

8 (3) Order that the child remain in long-term foster care, but
9 only if the court finds by clear and convincing evidence, based
10 upon the evidence already presented to it, including a
11 recommendation by the State Department of Social Services when
12 it is acting as an adoption agency in counties that are not served by
13 a county adoption agency or by a licensed county adoption agency,
14 that there is a compelling reason for determining that a hearing
15 held pursuant to Section 366.26 is not in the best interest of the
16 child because the child is not a proper subject for adoption and has
17 no one willing to accept legal guardianship. For purposes of this
18 section, a recommendation by the State Department of Social
19 Services when it is acting as an adoption agency in counties that
20 are not served by a county adoption agency or by a licensed county
21 adoption agency that adoption is not in the best interest of the child
22 shall constitute a compelling reason for the court's determination.
23 That recommendation shall be based on the present circumstances
24 of the child and shall not preclude a different recommendation at
25 a later date if the child's circumstances change.

26 *If the court orders that a child who is 10 years of age or older*
27 *remain in long-term foster care with a nonrelative, the court shall*
28 *determine whether the agency has made reasonable efforts to*
29 *maintain the child's relationships with individuals other than the*
30 *child's siblings who are important to the child, consistent with the*
31 *child's best interests, and may make any appropriate order to*
32 *ensure that those relationships are maintained.*

33 (h) In any case in which the court orders that a hearing pursuant
34 to Section 366.26 shall be held, it shall also order the termination
35 of reunification services to the parent or legal guardian. The court
36 shall continue to permit the parent or legal guardian to visit the
37 child pending the hearing unless it finds that visitation would be
38 detrimental to the child. The court shall make any other
39 appropriate orders to enable the child to maintain relationships
40 with other individuals who are important to the child.



1 (i) Whenever a court orders that a hearing pursuant to Section
2 366.26 shall be held, it shall direct the agency supervising the child
3 and the licensed county adoption agency, or the State Department
4 of Social Services when it is acting as an adoption agency in
5 counties that are not served by a county adoption agency, to
6 prepare an assessment that shall include:

7 (1) Current search efforts for an absent parent or parents or
8 legal guardians.

9 ~~(2) Identification of individuals who are important to the child
10 and actions necessary to maintain the child's relationship with
11 those individuals. The agency shall make efforts to identify
12 individuals who are important to the child, including, but not
13 limited to, all individuals identified by the child as important. The
14 agency shall ask every child who is 10 years of age or older to
15 identify any individuals who are important to him or her,
16 consistent with the child's best interest, and may ask any child who
17 is younger than 10 years of age to provide that information as
18 appropriate.~~

19 ~~(3)~~

20 (2) A review of the amount of and nature of any contact
21 between the child and his or her parents or legal guardians and
22 other members of his or her extended family since the time of
23 placement. Although the extended family of each child shall be
24 reviewed on a case-by-case basis, "extended family" for the
25 purpose of this paragraph shall include, but not be limited to, the
26 child's siblings, grandparents, aunts, and uncles.

27 ~~(4)~~

28 (3) An evaluation of the child's medical, developmental,
29 scholastic, mental, and emotional status.

30 ~~(5)~~

31 (4) A preliminary assessment of the eligibility and
32 commitment of any identified prospective adoptive parent or legal
33 guardian, particularly the caretaker, to include a social history
34 including screening for criminal records and prior referrals for
35 child abuse or neglect, the capability to meet the child's needs, and
36 the understanding of the legal and financial rights and
37 responsibilities of adoption and guardianship. If a proposed
38 guardian is a relative of the minor, and the relative was assessed
39 for foster care placement of the minor prior to January 1, 1998, the



1 assessment shall also consider, but need not be limited to, all of the
2 factors specified in subdivision (a) of Section 361.3.

3 ~~(6)~~

4 (5) The relationship of the child to any identified prospective
5 adoptive parent or legal guardian, the duration and character of the
6 relationship, the motivation for seeking adoption or guardianship,
7 and a statement from the child concerning placement and the
8 adoption or guardianship, unless the child's age or physical,
9 emotional, or other condition precludes his or her meaningful
10 response, and if so, a description of the condition.

11 ~~(7)~~

12 (6) A description of efforts to be made to identify a prospective
13 adoptive parent or legal guardian including, but not limited to,
14 child specific recruitment and listing on an adoption exchange.

15 ~~(8)~~

16 (7) An analysis of the likelihood that the child will be adopted
17 if parental rights are terminated.

18 (j) If, at any hearing held pursuant to Section 366.26, a
19 guardianship is established for the minor with a relative, and
20 juvenile court dependency is subsequently dismissed, the relative
21 shall be eligible for aid under the Kin-GAP program as provided
22 in Article 4.5 (commencing with Section 11360) of Chapter 2 of
23 Part 3 of Division 9.

24 (k) As used in this section, "relative" means an adult who is
25 related to the minor by blood, adoption, or affinity within the fifth
26 degree of kinship, including stepparents, stepsiblings, and all
27 relatives whose status is preceded by the words "great,"
28 "great-great," or "grand," or the spouse of any of those persons
29 even if the marriage was terminated by death or dissolution.

30 (l) For purposes of this section, evidence of any of the
31 following circumstances shall not, in and of itself, be deemed a
32 failure to provide or offer reasonable services:

33 (1) The child has been placed with a foster family that is
34 eligible to adopt a child, or has been placed in a preadoptive home.

35 (2) The case plan includes services to make and finalize a
36 permanent placement for the child if efforts to reunify fail.

37 (3) Services to make and finalize a permanent placement for
38 the child, if efforts to reunify fail, are provided concurrently with
39 services to reunify the family.

40 ~~SEC. 7.~~



1 SEC. 6. Section 366.22 of the Welfare and Institutions Code
2 is amended to read:

3 366.22. (a) When a case has been continued pursuant to
4 paragraph (1) of subdivision (g) of Section 366.21, the
5 permanency review hearing shall occur within 18 months after the
6 date the child was originally removed from the physical custody
7 of his or her parent or legal guardian. The court shall order the
8 return of the child to the physical custody of his or her parent or
9 legal guardian unless the court finds, by a preponderance of the
10 evidence, that the return of the child to his or her parent or legal
11 guardian would create a substantial risk of detriment to the safety,
12 protection, or physical or emotional well-being of the child. The
13 social worker shall have the burden of establishing that detriment.
14 The failure of the parent or legal guardian to participate regularly
15 and make substantive progress in court-ordered treatment
16 programs shall be prima facie evidence that return would be
17 detrimental. In making its determination, the court shall review
18 and consider the social worker's report and recommendations and
19 the report and recommendations of any child advocate appointed
20 pursuant to Section 356.5; shall consider the efforts or progress,
21 or both, demonstrated by the parent or legal guardian and the
22 extent to which he or she availed himself or herself of services
23 provided; and shall make appropriate findings pursuant to
24 subdivision (a) of Section 366.

25 Whether or not the child is returned to his or her parent or legal
26 guardian, the court shall specify the factual basis for its decision.
27 If the child is not returned to a parent or legal guardian, the court
28 shall specify the factual basis for its conclusion that return would
29 be detrimental.

30 If the child is not returned to a parent or legal guardian at the
31 permanency review hearing, the court shall order that a hearing be
32 held pursuant to Section 366.26 in order to determine whether
33 adoption, guardianship, or long-term foster care is the most
34 appropriate plan for the child. However, if the court finds by clear
35 and convincing evidence, based on the evidence already presented
36 to it, including a recommendation by the State Department of
37 Social Services when it is acting as an adoption agency in counties
38 that are not served by a county adoption agency or by a licensed
39 county adoption agency, that there is a compelling reason, as
40 described in paragraph (2) of subdivision (g) of Section 366.21, for



1 determining that a hearing held under Section 366.26 is not in the
2 best interest of the child because the child is not a proper subject
3 for adoption and has no one willing to accept legal guardianship,
4 then the court may, only under these circumstances, order that the
5 child remain in ~~long-term foster care~~ *foster care*. *If the court*
6 *orders that a child who is 10 years of age or older remain in*
7 *long-term foster care with a nonrelative, the court shall determine*
8 *whether the agency has made reasonable efforts to maintain the*
9 *child's relationships with individuals other than the child's siblings*
10 *who are important to the child, consistent with the child's best*
11 *interests, and may make any appropriate order to ensure that those*
12 *relationships are maintained.* The hearing shall be held no later
13 than 120 days from the date of the permanency review hearing.
14 The court shall also order termination of reunification services to
15 the parent or legal guardian. The court shall continue to permit the
16 parent or legal guardian to visit the child unless it finds that
17 visitation would be detrimental to the child. The court shall
18 determine whether reasonable services have been offered or
19 provided to the parent or legal guardian. For purposes of this
20 subdivision, evidence of any of the following circumstances shall
21 not, in and of themselves, be deemed a failure to provide or offer
22 reasonable services:

23 (1) The child has been placed with a foster family that is
24 eligible to adopt a child, or has been placed in a preadoptive home.

25 (2) The case plan includes services to make and finalize a
26 permanent placement for the child if efforts to reunify fail.

27 (3) Services to make and finalize a permanent placement for
28 the child, if efforts to reunify fail, are provided concurrently with
29 services to reunify the family.

30 (b) Whenever a court orders that a hearing pursuant to Section
31 366.26 shall be held, it shall direct the agency supervising the child
32 and the licensed county adoption agency, or the State Department
33 of Social Services when it is acting as an adoption agency in
34 counties that are not served by a county adoption agency, to
35 prepare an assessment that shall include:

36 (1) Current search efforts for an absent parent or parents.

37 (2) A review of the amount of and nature of any contact
38 between the child and his or her parents and other members of his
39 or her extended family since the time of placement. Although the
40 extended family of each child shall be reviewed on a case-by-case



1 basis, “extended family” for the purposes of this paragraph shall
2 include, but not be limited to, the child’s siblings, grandparents,
3 aunts, and uncles.

4 ~~(3) Identification of individuals who are important to the child
5 and actions necessary to maintain the child’s relationship with
6 those individuals. The agency shall ask every child who is 10 years
7 of age or older to identify any individuals who are important to him
8 or her, consistent with the child’s best interest, and may ask any
9 child who is 10 years of age to provide that information as
10 appropriate. The agency shall make efforts to identify other
11 individuals who are important to the child.~~

12 ~~(4)~~

13 (3) An evaluation of the child’s medical, developmental,
14 scholastic, mental, and emotional status.

15 ~~(5)~~

16 (4) A preliminary assessment of the eligibility and
17 commitment of any identified prospective adoptive parent or legal
18 guardian, particularly the caretaker, to include a social history
19 including screening for criminal records and prior referrals for
20 child abuse or neglect, the capability to meet the child’s needs, and
21 the understanding of the legal and financial rights and
22 responsibilities of adoption and guardianship. If a proposed legal
23 guardian is a relative of the minor, and the relative was assessed
24 for foster care placement of the minor prior to January 1, 1998, the
25 assessment shall also consider, but need not be limited to, all of the
26 factors specified in subdivision (a) of Section 361.3.

27 ~~(6)~~

28 (5) The relationship of the child to any identified prospective
29 adoptive parent or legal guardian, the duration and character of the
30 relationship, the motivation for seeking adoption or legal
31 guardianship, and a statement from the child concerning
32 placement and the adoption or legal guardianship, unless the
33 child’s age or physical, emotional, or other condition precludes his
34 or her meaningful response, and if so, a description of the
35 condition.

36 ~~(7)~~

37 (6) An analysis of the likelihood that the child will be adopted
38 if parental rights are terminated.

39 (c) This section shall become operative January 1, 1999. If at
40 any hearing held pursuant to Section 366.26, a legal guardianship



1 is established for the minor with a relative, and juvenile court
2 dependency is subsequently dismissed, the relative shall be
3 eligible for aid under the Kin-GAP program as provided in Article
4 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of
5 Division 9.

6 (d) As used in this section, “relative” means an adult who is
7 related to the child by blood, adoption, or affinity within the fifth
8 degree of kinship, including stepparents, stepsiblings, and all
9 relatives whose status is preceded by the words “great,”
10 “great-great,” or “grand,” or the spouse of any of those persons
11 even if the marriage was terminated by death or dissolution.

12 ~~SEC. 8.~~

13 *SEC. 7.* Section 366.26 of the Welfare and Institutions Code
14 is amended to read:

15 366.26. (a) This section applies to children who are adjudged
16 dependent children of the juvenile court pursuant to subdivision
17 (c) of Section 360. The procedures specified herein are the
18 exclusive procedures for conducting these hearings; Part 2
19 (commencing with Section 3020) of Division 8 of the Family Code
20 is not applicable to these proceedings. Section 8714.7 of the
21 Family Code is applicable and available to all dependent children
22 meeting the requirements of that section, if the postadoption
23 contact agreement has been entered into voluntarily. For children
24 who are adjudged dependent children of the juvenile court
25 pursuant to subdivision (c) of Section 360, this section and
26 Sections 8604, 8605, 8606, and 8700 of the Family Code and
27 Chapter 5 (commencing with Section 7660) of Part 3 of Division
28 12 of the Family Code specify the exclusive procedures for
29 permanently terminating parental rights with regard to, or
30 establishing legal guardianship of, the child while the child is a
31 dependent child of the juvenile court.

32 (b) At the hearing, that shall be held in juvenile court for all
33 children who are dependents of the juvenile court, the court, in
34 order to provide stable, permanent homes for these children, shall
35 review the report as specified in Section 361.5, 366.21, or 366.22,
36 shall indicate that the court has read and considered it, shall receive
37 other evidence that the parties may present, and then shall make
38 findings and orders in the following order of preference:

39 (1) Terminate the rights of the parent or parents and order that
40 the child be placed for adoption and, upon the filing of a petition



1 for adoption in the juvenile court, order that a hearing be set. The
2 court shall proceed with the adoption after the appellate rights of
3 the natural parents have been exhausted.

4 (2) On making a finding under paragraph (3) of subdivision (c),
5 identify adoption as the permanent placement goal and order that
6 efforts be made to locate an appropriate adoptive family for the
7 child within a period not to exceed 180 days.

8 (3) Appoint a legal guardian for the child and order that letters
9 of guardianship issue.

10 (4) Order that the child be placed in long-term foster care,
11 subject to the periodic review of the juvenile court under Section
12 366.3.

13 In choosing among the above alternatives the court shall
14 proceed pursuant to subdivision (c).

15 (c) (1) If the court determines, based on the assessment
16 provided as ordered under subdivision (i) of Section 366.21 or
17 subdivision (b) of Section 366.22, and any other relevant
18 evidence, by a clear and convincing standard, that it is likely the
19 child will be adopted, the court shall terminate parental rights and
20 order the child placed for adoption. The fact that the child is not
21 yet placed in a preadoptive home nor with a relative or foster
22 family who is prepared to adopt the child, shall not constitute a
23 basis for the court to conclude that it is not likely the child will be
24 adopted. A finding under subdivision (b) or paragraph (1) of
25 subdivision (e) of Section 361.5 that reunification services shall
26 not be offered, under subdivision (e) of Section 366.21 that the
27 whereabouts of a parent have been unknown for six months or that
28 the parent has failed to visit or contact the child for six months or
29 that the parent has been convicted of a felony indicating parental
30 unfitness, or, under Section 366.21 or 366.22, that the court has
31 continued to remove the child from the custody of the parent or
32 guardian and has terminated reunification services, shall
33 constitute a sufficient basis for termination of parental rights
34 unless the court finds a compelling reason for determining that
35 termination would be detrimental to the child due to one or more
36 of the following circumstances:

37 (A) The parents or guardians have maintained regular
38 visitation and contact with the child and the child would benefit
39 from continuing the relationship.



1 (B) A child 12 years of age or older objects to termination of
2 parental rights.

3 (C) The child is placed in a residential treatment facility,
4 adoption is unlikely or undesirable, and continuation of parental
5 rights will not prevent finding the child a permanent family
6 placement if the parents cannot resume custody when residential
7 care is no longer needed.

8 (D) The child is living with a relative or foster parent who is
9 unable or unwilling to adopt the child because of exceptional
10 circumstances, that do not include an unwillingness to accept legal
11 or financial responsibility for the child, but who is willing and
12 capable of providing the child with a stable and permanent
13 environment and the removal of the child from the physical
14 custody of his or her relative or foster parent would be detrimental
15 to the emotional well-being of the child. This subparagraph does
16 not apply to any child who is living with a nonrelative and who is
17 either (i) under six years of age or (ii) a member of a sibling group
18 where at least one child is under six years of age and the siblings
19 are, or should be, permanently placed together.

20 (E) There would be substantial interference with a child's
21 sibling relationship, taking into consideration the nature and
22 extent of the relationship, including, but not limited to, whether the
23 child was raised with a sibling in the same home, whether the child
24 shared significant common experiences or has existing close and
25 strong bonds with a sibling, and whether ongoing contact is in the
26 child's best interest, including the child's long-term emotional
27 interest, as compared to the benefit of legal permanence through
28 adoption.

29 If the court finds that termination of parental rights would be
30 detrimental to the child pursuant to subparagraph (A), (B), (C),
31 (D), or (E), it shall state its reasons in writing or on the record.

32 (2) The court shall not terminate parental rights if at each and
33 every hearing at which the court was required to consider
34 reasonable efforts or services, the court has found that reasonable
35 efforts were not made or that reasonable services were not offered
36 or provided.

37 (3) If the court finds that termination of parental rights would
38 not be detrimental to the child pursuant to paragraph (1) and that
39 the child has a probability for adoption but is difficult to place for
40 adoption and there is no identified or available prospective



1 adoptive parent, the court may identify adoption as the permanent
2 placement goal and without terminating parental rights, order that
3 efforts be made to locate an appropriate adoptive family for the
4 child within a period not to exceed 180 days. During this 180-day
5 period, the public agency responsible for seeking adoptive parents
6 for each child shall, to the extent possible, *ask each child who is*
7 *10 years of age or older to identify any individuals who are*
8 *important to the child, to identify potential adoptive parents. The*
9 *public agency may ask any child who is younger than 10 years of*
10 *age to provide that information, as appropriate. During the*
11 *180-day period, the public agency shall, to the extent possible,*
12 contact other private and public adoption agencies regarding the
13 availability of the child for adoption. During the 180-day period,
14 the public agency shall conduct the search for adoptive parents in
15 the same manner as prescribed for children in Sections 8708 and
16 8709 of the Family Code. At the expiration of this period, another
17 hearing shall be held and the court shall proceed pursuant to
18 paragraph (1), (3), or (4) of subdivision (b). For purposes of this
19 section, a child may only be found to be difficult to place for
20 adoption if there is no identified or available prospective adoptive
21 parent for the child because of the child's membership in a sibling
22 group, or the presence of a diagnosed medical, physical, or mental
23 handicap, or the child is the age of seven years or more.

24 (4) If the court finds that adoption of the child or termination
25 of parental rights is not in the best interest of the child, because one
26 of the conditions in subparagraph (A), (B), (C), (D) or (E) of
27 paragraph (1) or in paragraph (2) applies, the court shall either
28 order that the present caretakers or other appropriate persons shall
29 become legal guardians of the child or order that the child remain
30 in long-term foster care. Legal guardianship shall be considered
31 before long-term foster care, if it is in the best interests of the child
32 and if a suitable guardian can be found. *A child who is 10 years of*
33 *age or older who is not placed with a relative shall be asked to*
34 *identify any individuals who are important to the child to identify*
35 *potential guardians. The agency may ask any child who is younger*
36 *than 10 years of age to provide that information, as appropriate.*
37 When the child is living with a relative or a foster parent who is
38 willing and capable of providing a stable and permanent
39 environment, but not willing to become a legal guardian, the child
40 shall not be removed from the home if the court finds the removal



1 would be seriously detrimental to the emotional well-being of the
2 child because the child has substantial psychological ties to the
3 relative caretaker or foster parents. The court shall also make an
4 order for visitation with the parents or guardians unless the court
5 finds by a preponderance of the evidence that the visitation would
6 be detrimental to the physical or emotional well-being of the child.

7 (5) If the court finds that the child should not be placed for
8 adoption, that legal guardianship shall not be established, and that
9 there are no suitable foster parents except exclusive-use homes
10 available to provide the child with a stable and permanent
11 environment, the court may order the care, custody, and control of
12 the child transferred from the county welfare department to a
13 licensed foster family agency. The court shall consider the written
14 recommendation of the county welfare director regarding the
15 suitability of the transfer. The transfer shall be subject to further
16 court orders.

17 The licensed foster family agency shall place the child in a
18 suitable licensed or exclusive-use home which has been certified
19 by the agency as meeting licensing standards. The licensed foster
20 family agency shall be responsible for supporting the child and for
21 providing appropriate services to the child, including those
22 services ordered by the court. Responsibility for the support of the
23 child shall not, in and of itself, create liability on the part of the
24 foster family agency to third persons injured by the child. Those
25 children whose care, custody, and control are transferred to a foster
26 family agency shall not be eligible for foster care maintenance
27 payments or child welfare services, except for emergency
28 response services pursuant to Section 16504.

29 (d) The proceeding for the appointment of a guardian for a
30 child who is a dependent of the juvenile court shall be in the
31 juvenile court. If the court finds pursuant to this section that legal
32 guardianship is the appropriate permanent plan, it shall appoint the
33 legal guardian and issue letters of guardianship. The assessment
34 prepared pursuant to subdivision (g) of Section 361.5, subdivision
35 (i) of Section 366.21, and subdivision (b) of Section 366.22 shall
36 be read and considered by the court prior to the appointment, and
37 this shall be reflected in the minutes of the court. The person
38 preparing the assessment may be called and examined by any party
39 to the proceeding.



1 (e) The proceeding for the adoption of a child who is a
2 dependent of the juvenile court shall be in the juvenile court if the
3 court finds pursuant to this section that adoption is the appropriate
4 permanent plan and the petition for adoption is filed in the juvenile
5 court. Upon the filing of a petition for adoption, the juvenile court
6 shall order that an adoption hearing be set. The court shall proceed
7 with the adoption after the appellate rights of the natural parents
8 have been exhausted. The full report required by Section 8715 of
9 the Family Code shall be read and considered by the court prior to
10 the adoption and this shall be reflected in the minutes of the court.
11 The person preparing the report may be called and examined by
12 any party to the proceeding. It is the intent of the Legislature,
13 pursuant to this subdivision, to give potential adoptive parents the
14 option of filing in the juvenile court the petition for the adoption
15 of a child who is a dependent of the juvenile court. Nothing in this
16 section is intended to prevent the filing of a petition for adoption
17 in any other court as permitted by law, instead of in the juvenile
18 court.

19 (f) At the beginning of any proceeding pursuant to this section,
20 if the child or the parents are not being represented by previously
21 retained or appointed counsel, the court shall proceed as follows:

22 (1) The court shall consider whether the interests of the child
23 require the appointment of counsel. If the court finds that the
24 interests of the child do require this protection, the court shall
25 appoint counsel to represent the child. If the court finds that the
26 interests of the child require the representation of counsel, counsel
27 shall be appointed whether or not the child is able to afford
28 counsel. ~~The child shall~~ *A child under 10 years of age may not be*
29 *present in court unless the child or the child's counsel so requests*
30 *or the court so orders.*

31 (2) If a parent appears without counsel and is unable to afford
32 counsel, the court shall appoint counsel for the parent, unless this
33 representation is knowingly and intelligently waived. The same
34 counsel shall not be appointed to represent both the child and his
35 or her parent. The public defender or private counsel may be
36 appointed as counsel for the parent.

37 (3) Private counsel appointed under this section shall receive a
38 reasonable sum for compensation and expenses, the amount of
39 which shall be determined by the court. The amount shall be paid
40 by the real parties in interest, other than the child, in any



1 proportions the court deems just. However, if the court finds that
2 any of the real parties in interest are unable to afford counsel, the
3 amount shall be paid out of the general fund of the county.

4 (g) The court may continue the proceeding for not to exceed 30
5 days as necessary to appoint counsel, and to enable counsel to
6 become acquainted with the case.

7 (h) (1) At all proceedings under this section, the court shall
8 consider the wishes of the child and shall act in the best interests
9 of the child.

10 (2) If the child is 10 years of age or older and is not present at
11 a hearing held pursuant to this section, the court shall determine
12 whether the minor was properly notified of his or her right to attend
13 the hearing and inquire as to the reason why the child is not present.

14 (3) (A) The testimony of the child may be taken in chambers
15 and outside the presence of the child's parent or parents if the
16 child's parent or parents are represented by counsel, the counsel is
17 present, and any of the following circumstances exist:

18 (i) The court determines that testimony in chambers is
19 necessary to ensure truthful testimony.

20 (ii) The child is likely to be intimidated by a formal courtroom
21 setting.

22 (iii) The child is afraid to testify in front of his or her parent or
23 parents.

24 (B) After testimony in chambers, the parent or parents of the
25 child may elect to have the court reporter read back the testimony
26 or have the testimony summarized by counsel for the parent or
27 parents.

28 (C) The testimony of a child also may be taken in chambers and
29 outside the presence of the guardian or guardians of a child under
30 the circumstances specified in this subdivision.

31 (i) Any order of the court permanently terminating parental
32 rights under this section shall be conclusive and binding upon the
33 child, upon the parent or parents and upon all other persons who
34 have been served with citation by publication or otherwise as
35 provided in this chapter. After making the order, the court shall
36 have no power to set aside, change, or modify it, but nothing in this
37 section shall be construed to limit the right to appeal the order.

38 (j) If the court, by order or judgment declares the child free
39 from the custody and control of both parents, or one parent if the
40 other does not have custody and control, the court shall at the same



1 time order the child referred to the State Department of Social
2 Services or a licensed adoption agency for adoptive placement by
3 the agency. However, no petition for adoption may be granted until
4 the appellate rights of the natural parents have been exhausted. The
5 State Department of Social Services or licensed adoption agency
6 shall be responsible for the custody and supervision of the child
7 and shall be entitled to the exclusive care and control of the child
8 at all times until a petition for adoption is granted. With the consent
9 of the agency, the court may appoint a guardian of the child, who
10 shall serve until the child is adopted.

11 (k) Notwithstanding any other provision of law, the application
12 of any person who, as a relative caretaker or foster parent, has
13 cared for a dependent child for whom the court has approved a
14 permanent plan for adoption, or who has been freed for adoption,
15 shall be given preference with respect to that child over all other
16 applications for adoptive placement if the agency making the
17 placement determines that the child has substantial emotional ties
18 to the relative caretaker or foster parent and removal from the
19 relative caretaker or foster parent would be seriously detrimental
20 to the child's emotional well-being.

21 As used in this subdivision, "preference" means that the
22 application shall be processed and, if satisfactory, the family study
23 shall be completed before the processing of the application of any
24 other person for the adoptive placement of the child.

25 (l) (1) An order by the court that a hearing pursuant to this
26 section be held is not appealable at any time unless all of the
27 following applies:

28 (A) A petition for extraordinary writ review was filed in a
29 timely manner.

30 (B) The petition substantively addressed the specific issues to
31 be challenged and supported that challenge by an adequate record.

32 (C) The petition for extraordinary writ review was summarily
33 denied or otherwise not decided on the merits.

34 (2) Failure to file a petition for extraordinary writ review
35 within the period specified by rule, to substantively address the
36 specific issues challenged, or to support that challenge by an
37 adequate record shall preclude subsequent review by appeal of the
38 findings and orders made pursuant to this section.

39 (3) The Judicial Council shall adopt rules of court, effective
40 January 1, 1995, to ensure all of the following:



1 (A) A trial court, after issuance of an order directing a hearing
2 pursuant to this section be held, shall advise all parties of the
3 requirement of filing a petition for extraordinary writ review as set
4 forth in this subdivision in order to preserve any right to appeal in
5 these issues. This notice shall be made orally to a party if they are
6 present at the time of the making of the order or by first-class mail
7 by the clerk of the court to the last known address of a party not
8 present at the time of the making of the order.

9 (B) The prompt transmittal of the records from the trial court
10 to the appellate court.

11 (C) That adequate time requirements for counsel and court
12 personnel exist to implement the objective of this subdivision.

13 (D) That the parent or guardian, or their trial counsel or other
14 counsel, is charged with the responsibility of filing a petition for
15 extraordinary writ relief pursuant to this subdivision.

16 (4) The intent of this subdivision is to do both of the following:

17 (A) Make every reasonable attempt to achieve a substantive
18 and meritorious review by the appellate court within the time
19 specified in Sections 366.21 and 366.22 for holding a hearing
20 pursuant to this section.

21 (B) Encourage the appellate court to determine all writ
22 petitions filed pursuant to this subdivision on their merits.

23 (5) This subdivision shall only apply to cases in which an order
24 to set a hearing pursuant to this section is issued on or after January
25 1, 1995.

26 (m) Except for subdivision (j), this section shall also apply to
27 minors adjudged wards pursuant to Section 727.31.

28 ~~SEC. 9.~~

29 *SEC. 8.* Section 366.3 of the Welfare and Institutions Code is
30 amended to read:

31 366.3. (a) If a juvenile court orders a permanent plan of
32 adoption or legal guardianship pursuant to Section 360 or 366.26,
33 the court shall retain jurisdiction over the child until the child is
34 adopted or the legal guardianship is established, except as
35 provided for in Section 366.29. The status of the child shall be
36 reviewed every six months to ensure that the adoption or legal
37 guardianship is completed as expeditiously as possible. When the
38 adoption of the child has been granted, the court shall terminate its
39 jurisdiction over the child. Following establishment of a legal
40 guardianship, the court may continue jurisdiction over the child as



1 a dependent child of the juvenile court or may terminate its
2 dependency jurisdiction and retain jurisdiction over the child as a
3 ward of the legal guardianship, as authorized by Section 366.4. If,
4 however, a relative of the child is appointed the legal guardian of
5 the child and the child has been placed with the relative for at least
6 12 months, the court shall, except if the relative guardian objects,
7 or upon a finding of exceptional circumstances, terminate its
8 dependency jurisdiction and retain jurisdiction over the child as a
9 ward of the guardianship, as authorized by Section 366.4.
10 Following a termination of parental rights the parent or parents
11 shall not be a party to, or receive notice of, any subsequent
12 proceedings regarding the child.

13 (b) If the court has dismissed dependency jurisdiction
14 following the establishment of a legal guardianship, or no
15 dependency jurisdiction attached because of the granting of a legal
16 guardianship pursuant to Section 360, and the legal guardianship
17 is subsequently revoked or otherwise terminated, the county
18 department of social services or welfare department shall notify
19 the juvenile court of this fact. The court may vacate its previous
20 order dismissing dependency jurisdiction over the child.

21 Notwithstanding Section 1601 of the Probate Code, the
22 proceedings to terminate a legal guardianship that has been
23 granted pursuant to Section 360 or 366.26 shall be held in the
24 juvenile court, unless the termination is due to the emancipation
25 or adoption of the child. Prior to the hearing on a petition to
26 terminate legal guardianship pursuant to this paragraph, the court
27 shall order the county department of social services or welfare
28 department to prepare a report, for the court's consideration, that
29 shall include an evaluation of whether the child could safely
30 remain in the legal guardian's home, without terminating the legal
31 guardianship, if services were provided to the child or legal
32 guardian. If applicable, the report shall also identify recommended
33 services to maintain the legal guardianship and set forth a plan for
34 providing those services. If the petition to terminate legal
35 guardianship is granted, the juvenile court may resume
36 dependency jurisdiction over the child, and may order the county
37 department of social services or welfare department to develop a
38 new permanent plan, which shall be presented to the court within
39 60 days of the termination. If no dependency jurisdiction has
40 attached, the social worker shall make any investigation he or she



1 deems necessary to determine whether the child may be within the
2 jurisdiction of the juvenile court, as provided in Section 328.

3 Unless the parental rights of the child's parent or parents have
4 been terminated, they shall be notified that the legal guardianship
5 has been revoked or terminated and shall be entitled to participate
6 in the new permanency planning hearing. The court shall try to
7 place the child in another permanent placement. At the hearing, the
8 parents may be considered as custodians but the child shall not be
9 returned to the parent or parents unless they prove, by a
10 preponderance of the evidence, that reunification is the best
11 alternative for the child. The court may, if it is in the best interests
12 of the child, order that reunification services again be provided to
13 the parent or parents.

14 (c) If, following the establishment of a legal guardianship, the
15 county welfare department becomes aware of changed
16 circumstances that indicate adoption may be an appropriate plan
17 for the child, the department shall so notify the court. The court
18 may vacate its previous order dismissing dependency jurisdiction
19 over the child and order that a hearing be held pursuant to Section
20 366.26 to determine whether adoption or continued legal
21 guardianship is the most appropriate plan for the child. The
22 hearing shall be held no later than 120 days from the date of the
23 order. If the court orders that a hearing shall be held pursuant to
24 Section 366.26, the court shall direct the agency supervising the
25 child and the licensed county adoption agency, or the State
26 Department of Social Services if it is acting as an adoption agency
27 in counties that are not served by a county adoption agency, to
28 prepare an assessment under subdivision (b) of Section 366.22.

29 (d) If the child is in a placement other than the home of a legal
30 guardian and jurisdiction has not been dismissed, the status of the
31 child shall be reviewed at least every six months. The review of the
32 status of a child for whom the court has ordered parental rights
33 terminated and who has been ordered placed for adoption shall be
34 conducted by the court. The review of the status of a child for
35 whom the court has not ordered parental rights terminated and who
36 has not been ordered placed for adoption may be conducted by the
37 court or an appropriate local agency. The court shall conduct the
38 review under the following circumstances:

- 39 (1) Upon the request of the child's parents or legal guardians.
40 (2) Upon the request of the child.



1 (3) It has been 12 months since a hearing held pursuant to
2 Section 366.26 or an order that the child remain in long-term foster
3 care pursuant to Section 366.21, 366.22, 366.26, or subdivision
4 (g).

5 (4) It has been 12 months since a review was conducted by the
6 court.

7 The court shall determine whether or not reasonable efforts to
8 make and finalize a permanent placement for the child have been
9 made.

10 (e) Except as provided in subdivision (f), at the review held
11 every six months pursuant to subdivision (d), the reviewing body
12 shall inquire about the progress being made to provide a permanent
13 home for the child, shall consider the safety of the child, and shall
14 determine all of the following:

15 (1) The continuing necessity for and appropriateness of the
16 placement.

17 (2) *Identification of individuals other than the child’s siblings*
18 *who are important to a child who is 10 years of age or older who*
19 *is not placed with a relative, and actions necessary to maintain the*
20 *child’s relationship with those individuals, provided that those*
21 *relationships are in the best interest of the child. The social worker*
22 *shall ask every child who is 10 years of age or older who is not*
23 *placed with a relative to identify individuals other than the child’s*
24 *siblings who are important to the child, and may ask any child who*
25 *is younger than 10 years of age to provide that information, as*
26 *appropriate. The social worker shall make efforts to identify other*
27 *individuals who are important to the child, consistent with the*
28 *child’s best interests.*

29 (3) The continuing appropriateness and extent of compliance
30 with the permanent plan for the child, including efforts to maintain
31 relationships between the child and individuals who are important
32 to the child and efforts to identify a prospective adoptive parent or
33 legal guardian, including, but not limited to, child specific
34 recruitment efforts and listing on an adoption exchange.

35 ~~(3)~~

36 (4) The extent of the agency’s compliance with the child
37 welfare services case plan in making reasonable efforts to return
38 the child to a safe home and to complete whatever steps are
39 necessary to finalize the permanent placement of the child.

40 ~~(4)~~



1 (5) Whether there should be any limitation on the right of the
2 parent or guardian to make educational decisions for the child.
3 That limitation shall be specifically addressed in the court order
4 and may not exceed what is necessary to protect the child. If the
5 court specifically limits the right of the parent or guardian to make
6 educational decisions for the child, the court shall at the same time
7 appoint a responsible adult to make educational decisions for the
8 child pursuant to Section 361.

9 ~~(5)~~

10 (6) The adequacy of services provided to the child. The court
11 shall consider the progress in providing the information and
12 documents to the child, as described in Section 391. The court shall
13 also consider the need for, and progress in providing, the assistance
14 and services described in paragraphs (3) and (4) of subdivision (b)
15 of Section 391.

16 ~~(6)~~

17 (7) The extent of progress the parents or legal guardians have
18 made toward alleviating or mitigating the causes necessitating
19 placement in foster care.

20 ~~(7)~~

21 (8) The likely date by which the child may be returned to and
22 safely maintained in the home, placed for adoption, legal
23 guardianship, or in another planned permanent living
24 arrangement.

25 ~~(8)~~

26 (9) Whether the child has any siblings under the court's
27 jurisdiction, and, if any siblings exist, all of the following:

28 (A) The nature of the relationship between the child and his or
29 her siblings.

30 (B) The appropriateness of developing or maintaining the
31 sibling relationships pursuant to Section 16002.

32 (C) If the siblings are not placed together in the same home,
33 why the siblings are not placed together and what efforts are being
34 made to place the siblings together, or why those efforts are not
35 appropriate.

36 (D) If the siblings are not placed together, the frequency and
37 nature of the visits between siblings.

38 (E) The impact of the sibling relationships on the child's
39 placement and planning for legal permanence.



1 The factors the court may consider as indicators of the nature of
2 the child's sibling relationships include, but are not limited to,
3 whether the siblings were raised together in the same home,
4 whether the siblings have shared significant common experiences
5 or have existing close and strong bonds, whether either sibling
6 expresses a desire to visit or live with his or her sibling, as
7 applicable, and whether ongoing contact is in the child's best
8 emotional interests.

9 (9)

10 (10) For a child who is 16 years of age or older, the services
11 needed to assist the child to make the transition from foster care
12 to independent living.

13 The reviewing body shall determine whether or not reasonable
14 efforts to make and finalize a permanent placement for the child
15 have been made.

16 Each licensed foster family agency shall submit reports for each
17 child in its care, custody, and control to the court concerning the
18 continuing appropriateness and extent of compliance with the
19 child's permanent plan, the extent of compliance with the case
20 plan, and the type and adequacy of services provided to the child.

21 Unless their parental rights have been permanently terminated,
22 the parent or parents of the child are entitled to receive notice of,
23 and participate in, those hearings. It shall be presumed that
24 continued care is in the best interests of the child, unless the parent
25 or parents prove, by a preponderance of the evidence, that further
26 efforts at reunification are the best alternative for the child. In
27 those cases, the court may order that further reunification services
28 to return the child to a safe home environment be provided to the
29 parent or parents for a period not to exceed six months.

30 (f) At the review conducted by the court and held at least every
31 six months, regarding a child for whom the court has ordered
32 parental rights terminated and who has been ordered placed for
33 adoption, the county welfare department shall prepare and present
34 to the court a report describing the following:

35 (1) The child's present placement.

36 (2) The child's current physical, mental, emotional, and
37 educational status.

38 (3) ~~Identification~~ *If the child has not been placed with a*
39 *prospective adoptive parent or guardian, identification of*
40 *individuals who are important to the child and actions necessary*



1 to maintain the child’s relationship with those individuals. The
2 agency shall ask every child who is 10 years of age or older to
3 identify any individuals who are important to him or her,
4 consistent with the child’s best interest, and may ask any child who
5 is 10 years of age to provide that information as appropriate. The
6 agency shall make efforts to identify other individuals who are
7 important to the child.

8 (4) Whether the child has been placed with a prospective
9 adoptive parent or parents.

10 (5) Whether an adoptive placement agreement has been signed
11 and filed.

12 (6) If the child has not been placed with a prospective adoptive
13 parent or parents, the efforts made to identify an appropriate
14 prospective adoptive parent or legal guardian including, but not
15 limited to, child specific recruitment and listing on an adoption
16 exchange.

17 (7) Whether the final adoption order should include provisions
18 for postadoptive sibling contact pursuant to Section 366.29.

19 (8) The progress of the search for an adoptive placement if one
20 has not been identified.

21 (9) Any impediments to the adoption or the adoptive
22 placement.

23 (10) The anticipated date by which the child will be adopted,
24 or placed in an adoptive home.

25 (11) The anticipated date by which an adoptive placement
26 agreement will be signed.

27 (12) Recommendations for court orders that will assist in the
28 placement of the child for adoption or in the finalization of the
29 adoption.

30 The court shall determine whether or not reasonable efforts to
31 make and finalize a permanent placement for the child have been
32 made.

33 The court shall make appropriate orders to protect the stability
34 of the child and to facilitate and expedite the permanent placement
35 and adoption of the child.

36 (g) At the review held pursuant to subdivision (d) for a child in
37 long-term foster care, the court shall consider all permanency
38 planning options for the child including whether the child should
39 be returned to the home of the parent, placed for adoption, or
40 appointed a legal guardian, or, if compelling reasons exist for



1 finding that none of the foregoing options are in the best interest
2 of the child, whether the child should be placed in another planned
3 permanent living arrangement. The court shall order that a hearing
4 be held pursuant to Section 366.26 unless it determines by clear
5 and convincing evidence, that there is a compelling reason for
6 determining that a hearing held pursuant to Section 366.26 is not
7 in the best interest of the child because the child is being returned
8 to the home of the parent, the child is not a proper subject for
9 adoption, or no one is willing to accept legal guardianship. If the
10 licensed county adoption agency, or the department when it is
11 acting as an adoption agency in counties that are not served by a
12 county adoption agency, has determined it is unlikely that the child
13 will be adopted or one of the conditions described in paragraph (1)
14 of subdivision (c) of Section 366.26 applies, that fact shall
15 constitute a compelling reason for purposes of this subdivision.
16 Only upon that determination may the court order that the child
17 remain in foster care, without holding a hearing pursuant to
18 Section 366.26.

19 (h) If, as authorized by subdivision (g), the court orders a
20 hearing pursuant to Section 366.26, the court shall direct the
21 agency supervising the child and the licensed county adoption
22 agency, or the State Department of Social Services when it is
23 acting as an adoption agency in counties that are not served by a
24 county adoption agency, to prepare an assessment as provided for
25 in subdivision (i) of Section 366.21 or subdivision (b) of Section
26 366.22. A hearing held pursuant to Section 366.26 shall be held no
27 later than 120 days from the date of the 12-month review at which
28 it is ordered, and at that hearing the court shall determine whether
29 adoption, legal guardianship, or long-term foster care is the most
30 appropriate plan for the child.

31 *SEC. 9. Section 391 of the Welfare and Institutions Code is*
32 *amended to read:*

33 391. At any hearing to terminate jurisdiction over a dependent
34 child who has reached the age of majority the county welfare
35 department shall do both of the following:

36 (a) Ensure that the child is present in court, unless the child does
37 not wish to appear in court, or document efforts by the county
38 welfare department to locate the child when the child is not
39 available.



1 (b) Submit a report verifying that the following information,
2 documents, and services have been provided to the child:

3 (1) Written information concerning the child's dependency
4 case, including his or her family history and placement history, the
5 whereabouts of any siblings under the jurisdiction of the juvenile
6 court, unless the court determines that sibling contact would
7 jeopardize the safety or welfare of the sibling, directions on how
8 to access the documents the child is entitled to inspect under
9 Section 827, and the date on which the jurisdiction of the juvenile
10 court would be terminated.

11 (2) The following documents, where applicable: social security
12 card, certified birth certificate, identification card, as described in
13 Section 13000 of the Vehicle Code, death certificate of parent or
14 parents, and proof of citizenship or residence.

15 (3) Assistance in completing an application for Medi-Cal or
16 assistance in obtaining other health insurance; referral to
17 transitional housing, if available, or assistance in securing other
18 housing; and assistance in obtaining employment or other
19 financial support.

20 (4) Assistance in applying for admission to college or to a
21 vocational training program or other educational institution and in
22 obtaining financial aid, where appropriate.

23 (5) *Assistance in maintaining relationships with individuals*
24 *who are important to the child, based on the child's best interests.*

25 (c) The court may continue jurisdiction if it finds that the
26 county welfare department has not met the requirements of
27 subdivision (b) and that termination of jurisdiction would be
28 harmful to the best interests of the child. If the court determines
29 that continued jurisdiction is warranted pursuant to this section,
30 the continuation shall only be ordered for that period of time
31 necessary for the county welfare department to meet the
32 requirements of subdivision (b). This section shall not be
33 construed to limit the discretion of the juvenile court to continue
34 jurisdiction for other reasons. The court may terminate jurisdiction
35 if the county welfare department has offered the required services,
36 and the child either has refused the services or, after reasonable
37 efforts by the county welfare department, cannot be located.

38 (d) The Judicial Council shall develop and implement
39 standards, and develop and adopt appropriate forms, necessary to
40 implement this section.



1 SEC. 10. Section 10609.4 of the Welfare and Institutions
2 Code is amended to read:

3 10609.4. (a) On or before July 1, 2000, the State Department
4 of Social Services, in consultation with county and state
5 representatives, foster youth, and advocates, shall do both of the
6 following:

7 (1) Develop statewide standards for the implementation and
8 administration of the Independent Living Program established
9 pursuant to the federal Consolidated Omnibus Budget
10 Reconciliation Act of 1985 (Public Law 99-272).

11 (2) Define the outcomes for the Independent Living Program
12 and the characteristics of foster youth enrolled in the program for
13 data collection purposes.

14 (b) Each county department of social services shall include in
15 its annual Independent Living Program report both of the
16 following:

17 (1) An accounting of federal and state funds allocated for
18 implementation of the program. Expenditures shall be related to
19 the specific purposes of the program. Program purposes may
20 include, but are not limited to, all of the following:

21 (A) Enabling participants to seek a high school diploma or its
22 equivalent or to take part in appropriate vocational training, and
23 providing job readiness training and placement services, or
24 building work experience and marketable skills, or both.

25 (B) Providing training in daily living skills, budgeting, locating
26 and maintaining housing, and career planning.

27 (C) Providing for individual and group counseling.

28 (D) Integrating and coordinating services otherwise available
29 to participants.

30 (E) Providing each participant with a written transitional
31 independent living plan that will be based on an assessment of his
32 or her needs, that includes information provided by persons who
33 have been identified by the participant as important to the
34 participant, and that will be incorporated into his or her case plan.

35 (F) Providing participants with other services and assistance
36 designed to improve independent living.

37 (G) Convening persons who have been identified by the
38 participant as important to him or her for the purpose of providing
39 information to be included in his or her written transitional
40 independent living plan.



1 (2) A detail of the characteristics of foster youth enrolled in
2 their independent living programs and the outcomes achieved
3 based on the information developed by the department pursuant to
4 subdivision (a).

5 (c) In consultation with the department, a county may use
6 different methods and strategies to achieve the standards and
7 outcomes of the Independent Living Program developed pursuant
8 to subdivision (a).

9 (d) In consultation with the County Welfare Directors
10 Association, the California Youth Connection, and other
11 stakeholders, the department shall develop and adopt emergency
12 regulations in accordance with Section 11346.1 of the
13 Government Code that counties shall be required to meet when
14 administering the Independent Living Program and that are
15 achievable within existing program resources. The initial adoption
16 of emergency regulations and one readoption of the initial
17 regulations shall be deemed to be an emergency and necessary for
18 the immediate preservation of the public peace, health and safety,
19 or general welfare. Initial emergency regulations and the first
20 readoption of those regulations shall be exempt from review by the
21 Office of Administrative Law. The initial emergency regulations
22 and the first readoption of those regulations authorized by this
23 subdivision shall be submitted to the Office of Administrative Law
24 for filing with the Secretary of State and each shall remain in effect
25 for no more than 180 days.

26 SEC. 11. *Section 16206 of the Welfare and Institutions Code*
27 *is amended to read:*

28 16206. (a) The purpose of the program is to develop and
29 implement statewide coordinated training programs designed
30 specifically to meet the needs of county child protective service
31 social workers assigned emergency response, family maintenance,
32 family reunification, permanent placement, and adoption
33 responsibilities. It is the intent of the Legislature that the program
34 include training for other agencies under contract with county
35 welfare departments to provide child welfare services. In addition,
36 the program shall provide training programs for persons defined
37 as a mandated reporter pursuant to the Child Abuse and Neglect
38 Reporting Act, Article 2.5 (commencing with Section 11164) of
39 Chapter 2 of Title 1 of Part 4 of the Penal Code. The program shall
40 provide the services required in this section to the extent possible



1 within the total allocation. If allocations are insufficient, the
2 department, in consultation with the grantee or grantees and the
3 Child Welfare Training Advisory Board, shall prioritize the efforts
4 of the program, giving primary attention to the most urgently
5 needed services. However, county child protective service social
6 workers assigned emergency response responsibilities shall
7 receive first priority for training pursuant to this act.

8 (b) The training program shall provide practice-relevant
9 training for mandated child abuse reporters and all members of the
10 child welfare delivery system that will address critical issues
11 affecting the well-being of children, and shall develop curriculum
12 materials and training resources for use in meeting staff
13 development needs of mandated child abuse reporters and child
14 welfare personnel in public and private agency settings.

15 (c) The training provided pursuant to this section shall include
16 all of the following:

17 (1) Crisis intervention.

18 (2) Investigative techniques.

19 (3) Rules of evidence.

20 (4) Indicators of abuse and neglect.

21 (5) Assessment criteria, including the application of guidelines
22 for assessment of relatives for placement according to the criteria
23 described in Section 361.3.

24 (6) Intervention strategies.

25 (7) Legal requirements of child protection, including
26 requirements of child abuse reporting laws.

27 (8) Case management.

28 (9) Use of community resources.

29 (10) Information regarding the dynamics and effects of
30 domestic violence upon families and children, including
31 indicators and dynamics of teen dating violence.

32 (11) Post traumatic stress disorder and the causes, symptoms,
33 and treatment of post traumatic stress disorder in children.

34 (12) *The importance of maintaining relationships with*
35 *individuals who are important to a child in out-of-home*
36 *placement, including methods to identify those individuals,*
37 *consistent with the child's best interests, including, but not limited*
38 *to, asking the child about individuals who are important, and ways*
39 *to maintain and support those relationships.*



1 (d) The training provided pursuant to this section may also
2 include any or all of the following:

- 3 (1) Child development and parenting.
- 4 (2) Intake, interviewing, and initial assessment.
- 5 (3) Casework and treatment.
- 6 (4) Medical aspects of child abuse and neglect.

7 (e) Prior to January 1, 1989, the department shall provide the
8 Legislative Analyst and the Select Committee on Children and
9 Youth with a listing of the counties participating in the program,
10 including the number of persons trained in each county.

11 (f) The training program shall assess the program's
12 performance at least annually and forward it to the State
13 Department of Social Services for an evaluation and report to the
14 Legislative Analyst. The first report shall be forwarded to the
15 Legislative Analyst no later than January 1, 1990, and on the first
16 of January in any subsequent years. The assessment shall include
17 at minimum the following:

- 18 (1) The number of persons trained.
- 19 (2) The type of training provided.
- 20 (3) The degree to which the training is perceived by
21 participants as useful in practice.

22 (g) The training program shall provide practice-relevant
23 training to county child protective service social workers who
24 screen referrals for child abuse or neglect and for all workers
25 assigned to provide emergency response, family maintenance,
26 family reunification, and permanent placement services. The
27 training shall be developed in consultation with the Child Welfare
28 Training Advisory Board and domestic violence victims'
29 advocates and other public and private agencies that provide
30 programs for victims of domestic violence or programs of
31 intervention for perpetrators.

32 *SEC. 12.* Section 16500.1 of the Welfare and Institutions
33 Code is amended to read:

34 16500.1. (a) It is the intent of the Legislature to use the
35 strengths of families and communities to serve the needs of
36 children who are alleged to be abused or neglected, as described
37 in Section 300, to reduce the necessity for removing these children
38 from their home, to encourage speedy reunification of families
39 when it can be safely accomplished, to locate permanent homes
40 and families for children who cannot return to their biological



1 families, to reduce the number of placements experienced by these
2 children, to ensure that children leaving the foster care system have
3 support within their communities, to improve the quality and
4 homelike nature of out-of-home care, and to foster the educational
5 progress of children in out-of-home care.

6 (b) In order to achieve the goals specified in subdivision (a), the
7 state shall encourage the development of approaches to child
8 protection that do all of the following:

9 (1) Allow children to remain in their own schools, in close
10 proximity to their families.

11 (2) Increase the number and quality of foster families available
12 to serve these children.

13 (3) Use a team approach to foster care that permits the
14 biological and foster family to be part of that team.

15 (4) Use team decisionmaking in case planning.

16 (5) Provide support to foster children and foster families.

17 (6) Ensure that licensing requirements do not create barriers to
18 recruitment of qualified, high quality foster homes.

19 (7) Provide training for foster parents and professional staff on
20 working effectively with families and communities.

21 (8) Encourage foster parents to serve as mentors and role
22 models for biological parents.

23 (9) Use community resources, including community-based
24 agencies and volunteer organizations, to assist in developing
25 placements for children and to provide support for children and
26 their families.

27 (10) Ensure an appropriate array of placement resources for
28 children in need of out-of-home care.

29 (11) Ensure that no child leaves foster care without a life-long
30 connection to a committed adult.

31 (c) In carrying out the requirements of subdivision (b), the
32 department shall do all of the following:

33 (1) Consider the existing array of program models provided in
34 statute and in practice, including, but not limited to, wraparound
35 services, as defined in Section 18251, children's systems of care,
36 as provided for in Section 5852, the Oregon Family Unity or Santa
37 Clara County Family Conference models, which include family
38 conferences at key points in the casework process, such as when
39 out-of-home placement or return home are considered, and the
40 Annie E. Casey Foundation Family to Family initiative, which



1 uses team decisionmaking in case planning, community-based
2 placement practices requiring that children be placed in foster care
3 in the communities where they resided prior to placement, and
4 involve foster families as team members in family reunification
5 efforts.

6 (2) Ensure that emergency response services, family
7 maintenance services, family reunification services, and
8 permanent placement services are coordinated with the
9 implementation of the models described in paragraph (1).

10 (3) Ensure consistency between child welfare services program
11 regulations and the program models described in paragraph (1).

12 (d) The department, in conjunction with stakeholders,
13 including, but not limited to, county child welfare services
14 agencies, foster parent and group home associations, the
15 California Youth Connection, and other child advocacy groups,
16 shall review the existing child welfare services program
17 regulations to ensure that these regulations are consistent with the
18 legislative intent specified in subdivision (a). This review shall
19 also determine how to incorporate the best practice guidelines for
20 assessment of children and families receiving child welfare and
21 foster care services, as required by Section 16501.2.

22 (e) The department shall report to the Legislature on the results
23 of the actions taken under this section on or before January 1, 2002.

24 ~~SEC. 12.—Section 16508 of the Welfare and Institutions Code~~
25 ~~is amended to read:~~

26 ~~16508.—(a) Permanent placement services shall be provided~~
27 ~~or arranged for by county welfare department staff for children~~
28 ~~who cannot safely live with their parents and are not likely to~~
29 ~~return to their own homes. Permanent placement services shall be~~
30 ~~available without regard to income to the following children:~~

31 ~~(1) Children judged dependent under Section 300 where a~~
32 ~~review has determined that reunification, adoption, or~~
33 ~~guardianship is inappropriate.~~

34 ~~(2) Recipients of public assistance under nonfederally funded~~
35 ~~Aid to Families with Dependent Children programs who are wards~~
36 ~~of a legal guardian where a review has determined that~~
37 ~~reunification or adoption is inappropriate.~~

38 ~~(b) The social worker shall include in every case plan for~~
39 ~~permanent placement services a discussion of individuals who are~~
40 ~~important to the child and a plan for maintaining the child's~~



1 ~~relationship with those individuals. The social worker shall ask~~
2 ~~every child who is 10 years of age or older to identify any~~
3 ~~individuals who are important to him or her, consistent with the~~
4 ~~child's best interest, and may ask any child who is younger than 10~~
5 ~~years of age to provide that information as appropriate. The social~~
6 ~~worker shall make efforts to identify other individuals who are~~
7 ~~important to the child.~~

8 SEC. 13. *Section 16501.1 of the Welfare and Institutions Code*
9 *is amended to read:*

10 16501.1. (a) The Legislature finds and declares that the
11 foundation and central unifying tool in child welfare services is the
12 case plan.

13 (b) The Legislature further finds and declares that a case plan
14 ensures that the child receives protection and safe and proper care
15 and case management, and that services are provided to the child
16 and parents or other caretakers as appropriate in order to improve
17 conditions in the parent's home, to facilitate the safe return of the
18 child to a safe home or the permanent placement of the child, and
19 to address the needs of the child while in foster care. A case plan
20 shall be based upon the principles of this section and shall
21 document that a preplacement assessment of the service needs of
22 the child and family, and preplacement preventive services, have
23 been provided, and that reasonable efforts to prevent out-of-home
24 placement have been made. In determining the reasonable services
25 to be offered or provided, the child's health and safety shall be the
26 paramount concerns. Reasonable services shall be offered or
27 provided to make it possible for a child to return to a safe home
28 environment, unless, pursuant to subdivisions (b) and (e) of
29 Section 361.5, the court determines that reunification services
30 shall not be provided. If reasonable services are not ordered, or are
31 terminated, reasonable efforts shall be made to place the child in
32 a timely manner in accordance with the permanent plan and to
33 complete all steps necessary to finalize the permanent placement
34 of the child.

35 (c) When out-of-home placement is used to attain case plan
36 goals, the decision regarding choice of placement shall be based
37 upon selection of a safe setting that is the least restrictive or most
38 familylike and the most appropriate setting that is available and in
39 close proximity to the parent's home, consistent with the selection
40 of the environment best suited to meet the child's special needs and



1 best interest, or both. The selection shall consider, in order of
2 priority, placement with relatives, tribal members, and foster
3 family, group care, and residential treatment pursuant to Section
4 7950 of the Family Code.

5 (d) A written case plan shall be completed within 30 days of the
6 initial removal of the child or of the in-person response required
7 under subdivision (f) of Section 16501 if the child has not been
8 removed from his or her home, or by the date of the dispositional
9 hearing pursuant to Section 358, whichever occurs first. The case
10 plan shall be updated, as the service needs of the child and family
11 dictate. At a minimum, the case plan shall be updated in
12 conjunction with each status review hearing conducted pursuant
13 to Section 366.21, and the hearing conducted pursuant to Section
14 366.26, but no less frequently than once every six months. Each
15 updated case plan shall include a description of the services that
16 have been provided to the child under the plan and an evaluation
17 of the appropriateness and effectiveness of those services.

18 (e) The child welfare services case plan shall be comprehensive
19 enough to meet the juvenile court dependency proceedings
20 requirements pursuant to Article 6 (commencing with Section
21 300) of Chapter 2 of Part 1 of Division 2.

22 (f) The case plan shall be developed as follows:

23 (1) The case plan shall be based upon an assessment of the
24 circumstances that required child welfare services intervention.

25 (2) The case plan shall identify specific goals and the
26 appropriateness of the planned services in meeting those goals.

27 (3) The case plan shall identify the original allegations of abuse
28 or neglect, as defined in Article 2.5 (commencing with Section
29 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
30 conditions cited as the basis for declaring the child a dependent of
31 the court pursuant to Section 300, or all of these, and the other
32 precipitating incidents that led to child welfare services
33 intervention.

34 (4) The case plan shall include a description of the schedule of
35 the social worker contacts with the child and the family or other
36 caretakers. The frequency of these contacts shall be in accordance
37 with regulations adopted by the State Department of Social
38 Services. If the child has been placed in foster care out of state, the
39 county social worker or a social worker on the staff of the social
40 service agency in the state in which the child has been placed shall



1 visit the child in a foster family home or the home of a relative at
2 least every 12 months and submit a report to the court on each visit.
3 For children in out-of-state group home facilities, visits shall be
4 conducted at least monthly, pursuant to Section 16516.5. At least
5 once every six months, at the time of a regularly scheduled social
6 worker contact with the foster child, the child's social worker shall
7 inform the child of his or her rights as a foster child, as specified
8 in Section 16001.9. The social worker shall provide the
9 information to the child in a manner appropriate to the age or
10 developmental level of the child.

11 (5) When out-of-home services are used, the frequency of
12 contact between the natural parents or legal guardians and the child
13 shall be specified in the case plan. The frequency of those contacts
14 shall reflect overall case goals, and consider other principles
15 outlined in this section.

16 (6) When out-of-home placement is made, the case plan shall
17 include provisions for the development and maintenance of sibling
18 relationships as specified in subdivisions (b), (c), and (d) of
19 Section 16002. If appropriate, when siblings who are dependents
20 of the juvenile court are not placed together, the social worker for
21 each child, if different, shall communicate with each of the other
22 social workers and ensure that the child's siblings are informed of
23 significant life events that occur within their extended family.
24 Unless it has been determined that it is inappropriate in a particular
25 case to keep siblings informed of significant life events that occur
26 within the extended family, the social worker shall determine the
27 appropriate means and setting for disclosure of this information to
28 the child commensurate with the child's age and emotional
29 well-being. These significant life events shall include, but shall not
30 be limited to, the following:

31 (A) The death of an immediate relative.

32 (B) The birth of a sibling.

33 (C) Significant changes regarding a dependent child, unless the
34 child objects to the sharing of the information with his or her
35 siblings, including changes in placement, major medical or mental
36 health diagnoses, treatments, or hospitalizations, arrests, and
37 changes in the permanent plan.

38 (7) When out-of-home placement is made in a foster family
39 home, group home or other child care institution that is either a
40 substantial distance from the home of the child's parent or out of



1 state, the case plan shall specify the reasons why that placement is
2 in the best interest of the child. When an out-of-state group home
3 placement is recommended or made, the case plan shall, in
4 addition, specify compliance with Section 7911.1 of the Family
5 Code.

6 (8) When out-of-home services are used, or when parental
7 rights have been terminated and the case plan is placement for
8 adoption, the case plan shall include a recommendation regarding
9 the appropriateness of unsupervised visitation between the child
10 and any of the child's siblings. This recommendation shall include
11 a statement regarding the child's and the siblings' willingness to
12 participate in unsupervised visitation. If the case plan includes a
13 recommendation for unsupervised sibling visitation, the plan shall
14 also note that information necessary to accomplish this visitation
15 has been provided to the child or to the child's siblings.

16 (9) When out-of-home services are used and the goal is
17 reunification, the case plan shall describe the services to be
18 provided to assist in reunification and the services to be provided
19 concurrently to achieve legal permanency if efforts to reunify fail.
20 The plan shall also consider the importance of developing and
21 maintaining sibling relationships pursuant to Section 16002.

22 (10) When out-of-home services are used, the child has been in
23 care for at least 12 months, and the goal is not adoptive placement,
24 the case plan shall include documentation of the compelling reason
25 or reasons why termination of parental rights is not in the child's
26 best interest. A determination completed or updated within the
27 past 12 months by the department when it is acting as an adoption
28 agency or by a licensed adoption agency that it is unlikely that the
29 child will be adopted, or that one of the conditions described in
30 paragraph (1) of subdivision (c) of Section 366.26 applies, shall be
31 deemed a compelling reason.

32 (11) (A) Parents and legal guardians shall have an opportunity
33 to review the case plan, sign it whenever possible, and then shall
34 receive a copy of the plan. In any voluntary service or placement
35 agreement, the parents or legal guardians shall be required to
36 review and sign the case plan. Whenever possible, parents and
37 legal guardians shall participate in the development of the case
38 plan.

39 (B) Parents and legal guardians shall be advised that, pursuant
40 to Section 1228.1 of the Evidence Code, neither their signature on



1 the child welfare services case plan nor their acceptance of any
2 services prescribed in the child welfare services case plan shall
3 constitute an admission of guilt or be used as evidence against the
4 parent or legal guardian in a court of law. However, they shall also
5 be advised that the parent's or guardian's failure to cooperate,
6 except for good cause, in the provision of services specified in the
7 child welfare services case plan may be used in any hearing held
8 pursuant to Section 366.21 or 366.22 as evidence.

9 (12) The case plan shall be included in the court report and shall
10 be considered by the court at the initial hearing and each review
11 hearing. Modifications to the case plan made during the period
12 between review hearings need not be approved by the court if the
13 casework supervisor for that case determines that the
14 modifications further the goals of the plan. When out-of-home
15 services are used with the goal of family reunification, the case
16 plan shall consider and describe the application of subdivision (b)
17 of Section 11203.

18 (13) When the case plan has as its goal for the child a permanent
19 plan of adoption or placement in another permanent home, it shall
20 include documentation of the steps the agency is taking to find an
21 adoptive family or other permanent living arrangements for the
22 child; to place the child with an adoptive family, an appropriate
23 and willing relative, a legal guardian, or in another planned
24 permanent living arrangement; and to finalize the adoption or legal
25 guardianship. At a minimum, the documentation shall include
26 child specific recruitment efforts, such as the use of state, regional,
27 and national adoption exchanges, including electronic exchange
28 systems, when the child has been freed for adoption.

29 (14) *When appropriate, for a child who is 16 years of age or*
30 *older, the case plan shall include a written description of the*
31 *programs and services that will help the child prepare for the*
32 *transition from foster care to independent living. The case plan*
33 *shall be developed with the child and individuals identified as*
34 *important to the child, and shall include steps the agency is taking*
35 *to ensure that the child has a connection to a caring adult.*

36 (g) If the court finds, after considering the case plan, that
37 unsupervised sibling visitation is appropriate and has been
38 consented to, the court shall order that the child or the child's
39 siblings, and the child's prospective adoptive parents, if
40 applicable, be provided with information necessary to accomplish



1 this visitation. Nothing in this section shall be construed to require
2 or prohibit the social worker's facilitation, transportation, or
3 supervision of visits between the child and his or her siblings.

4 (h) The case plan documentation on sibling placements
5 required under this section shall not require modification of
6 existing case plan forms until the Child Welfare Services Case
7 Management System is implemented on a statewide basis.

8 (i) *When a child who is 10 years of age or older has been in*
9 *out-of-home placement with a nonrelative for six months or longer*
10 *from the date the child entered foster care, the case plan shall*
11 *include an identification of individuals, other than the child's*
12 *siblings, who are important to the child and actions necessary to*
13 *maintain the child's relationship with those individuals, provided*
14 *that those relationships are in the best interest of the child. The*
15 *social worker shall ask every child who is 10 years of age or older*
16 *who is not placed with a relative to identify any individuals other*
17 *than the child's siblings who are important to the child, and may*
18 *ask any child who is younger than 10 years of age to provide that*
19 *information, as appropriate. The social worker shall make efforts*
20 *to identify other individuals who are important to the child,*
21 *consistent with the child's best interests.*

22 (j) The department, in consultation with the County Welfare
23 Directors Association and other advocates, shall develop
24 standards and guidelines for a model relative placement search and
25 assessment process based on the criteria established in Section
26 361.3. These guidelines shall be incorporated in the training
27 described in Section 16206. These model standards and guidelines
28 shall be developed by March 1, 1999.

29 *SEC. 14.* Notwithstanding Section 17610 of the Government
30 Code, if the Commission on State Mandates determines that this
31 act contains costs mandated by the state, reimbursement to local
32 agencies and school districts for those costs shall be made pursuant
33 to Part 7 (commencing with Section 17500) of Division 4 of Title
34 2 of the Government Code. If the statewide cost of the claim for
35 reimbursement does not exceed one million dollars (\$1,000,000),
36 reimbursement shall be made from the State Mandates Claims
37 Fund.

O

