

AMENDED IN SENATE JULY 8, 2003  
AMENDED IN ASSEMBLY MAY 13, 2003  
AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1151**

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**Introduced by Assembly Member Dymally**

February 21, 2003

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An act to amend Section 911.4 of, *and to add Section 6252.6 to*, the Government Code, to amend Section 1527.6 of the Health and Safety Code, and to amend ~~Sections 827 and~~ *Section 16501.1* of, and to add Section 16000.1 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as amended, Dymally. Foster care.

Existing law requires a claim for personal injury against a public entity, which includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, or against an employee of a public entity, to be presented not later than 6 months after accrual of the cause of action. Existing law provides that when a claim is not filed within the 6-month period, an application for leave to present the claim within a reasonable time not to exceed one year after the accrual of the cause of action may be filed in accordance with specified provisions. Existing law provides that the time during which a person is detained or adjudged a dependent child of the juvenile

court pursuant to certain provisions of law shall, under certain circumstances, not be counted in that one-year period.

This bill would provide that the time during which a minor is adjudged to be a dependent child of the juvenile court, pursuant to certain provisions of law, shall not be counted in that one-year period if the minor is without a guardian ad litem or conservator for purposes of filing civil actions.

Existing law establishes the Foster Family Home and Small Family Home Insurance Fund within the State Department of Social Services to pay on behalf of foster family homes and small family homes, claims of foster children, their parents, guardians, and guardians ad litem resulting from occurrences peculiar to the foster-care relationship and the provision of foster-care services. Existing law requires that any claim against the fund filed by a foster parent or a 3rd party be submitted to the fund within the applicable period of limitation for the appropriate civil action underlying the claim. Existing law provides that if a person entitled to bring an action under specified laws is, at the time the cause of action accrued, either a minor or insane, the time of this disability is not part of the time limited for the commencement of the action.

This bill would provide that a claim against the fund filed by a foster parent or 3rd party is subject to the latter provision described above that extends the limitation of time for the commencement of an action for a minor.

Under existing law, juvenile court records are generally confidential, with certain limited exceptions. Existing law requires the release to the public of juvenile case files that pertain to a deceased dependent child of the juvenile court, pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Existing law authorizes the presiding judge of the juvenile court to issue an order prohibiting or limiting access to the juvenile case file under certain circumstances.

This bill would provide that after the death of a minor foster child, designated information regarding that child shall be subject to disclosure pursuant to the California Public Records Act.

Existing law requires that if a child is removed from the physical custody of his or her parents, preferential consideration be given to a request by a relative of the child for placement of the child with the relative.

Existing law sets forth the policy of the state that all children placed in foster care have certain rights, and requires social workers and



facilities providing social services to children in foster care to provide those children with information regarding those rights.

This bill would declare legislative intent that nothing in the decision of the California Court of Appeal in *County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R.* (2002) 102 Cal.App.4th 627, ~~to the extent that decision affected~~ shall ~~be held~~ *be held* to change the standards of liability or immunity for injuries to children in protective custody, as they existed prior to that decision, and to confirm the state’s duty to comply with all requirements under certain federal law that are relevant to the protection and welfare of children in foster care.

Existing law relating to the establishment of a case plan for a child in foster care expresses a policy that these children be in a safe home or out-of-home setting.

This bill would specify that “safe” for these purposes means a home or setting that is free from abuse, as described in specified existing law. The bill would make a legislative finding that the definition of safe contained in the bill is declaratory of existing law.

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

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

1 SECTION 1. This act shall be known and may be cited as the  
2 Duty to Foster Children Reaffirmation Act.

3 SEC. 2. Section 911.4 of the Government Code is amended to  
4 read:

5 911.4. (a) When a claim that is required by Section 911.2 to  
6 be presented not later than six months after the accrual of the cause  
7 of action is not presented within that time, a written application  
8 may be made to the public entity for leave to present that claim.

9 (b) The application shall be presented to the public entity as  
10 provided in Article 2 (commencing with Section 915) within a  
11 reasonable time not to exceed one year after the accrual of the  
12 cause of action and shall state the reason for the delay in presenting  
13 the claim. The proposed claim shall be attached to the application.

14 (c) In computing the one-year period under subdivision (b), the  
15 following shall apply:

16 (1) The time during which the person who sustained the alleged  
17 injury, damage, or loss as a minor shall be counted, but the time



1 during which he or she is mentally incapacitated and does not have  
2 a guardian or conservator of his or her person shall not be counted.

3 (2) The time shall not be counted during which the person is  
4 detained or adjudged to be a dependent child of the juvenile court  
5 under the Arnold-Kennick Juvenile Court Law (Chapter 2  
6 (commencing with Section 200) of Part 1 of Division 2 of the  
7 Welfare and Institutions Code), if both of the following conditions  
8 exist:

9 (A) The person is in the custody and control of an agency of the  
10 public entity to which a claim is to be presented.

11 (B) The public entity or its agency having custody and control  
12 of the minor is required by statute or other law to make a report of  
13 injury, abuse, or neglect to either the juvenile court or the minor’s  
14 attorney, and that entity or its agency fails to make this report  
15 within the time required by the statute or other enactment, with this  
16 time period to commence on the date on which the public entity or  
17 its agency becomes aware of the injury, neglect, or abuse. In  
18 circumstances where the public entity or its agency makes a late  
19 report, the claim period shall be tolled for the period of the delay  
20 caused by the failure to make a timely report.

21 (3) The time shall not be counted during which a minor is  
22 adjudged to be a dependent child of the juvenile court under the  
23 Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing  
24 with Section 200) of Part 1 of Division 2 of the Welfare and  
25 Institutions Code), if the minor is without a guardian ad litem or  
26 conservator for purposes of filing civil actions.

27 SEC. 3. *Section 6252.6 is added to the Government Code, to*  
28 *read:*

29 *6252.6. Notwithstanding paragraph (2) of subdivision (a) of*  
30 *Section 827 of the Welfare and Institutions Code, after the death*  
31 *of a foster child who is a minor, the name, date of birth, and date*  
32 *of death of the child shall be subject to disclosure pursuant to this*  
33 *chapter.*

34 SEC. 4. Section 1527.6 of the Health and Safety Code is  
35 amended to read:

36 1527.6. (a) Any claim against the fund shall be filed with the  
37 fund in accordance with claims procedures and on forms  
38 prescribed by the State Department of Social Services or its  
39 designated contract agency.



1 (b) Any claim against the fund filed by a foster parent or a third  
2 party shall be submitted to the fund within the applicable period  
3 of limitations for the appropriate civil action underlying the claim,  
4 subject to *subdivision (a) of Section 352 of the Code of Civil*  
5 *Procedure as that section applies to a minor. If a claim is not*  
6 *submitted to the fund within the applicable time, there shall be no*  
7 *recourse against the fund.*

8 (c) The department shall approve or reject a claim within 180  
9 days after it is presented.

10 (d) No person may bring a civil action against a foster parent  
11 for which the fund is liable unless that person has first filed a claim  
12 against the fund and the claim has been rejected, or the claim has  
13 been filed, approved, and paid, and damages in excess of the  
14 payment are claimed.

15 ~~SEC. 4. Section 827 of the Welfare and Institutions Code is~~  
16 ~~amended to read:~~

17 ~~827. (a) (1) Except as provided in Section 828, a case file~~  
18 ~~may be inspected only by the following:~~

19 ~~(A) Court personnel.~~

20 ~~(B) The district attorney, a city attorney, or a city prosecutor~~  
21 ~~authorized to prosecute criminal or juvenile cases under state law.~~

22 ~~(C) The minor who is the subject of the proceeding.~~

23 ~~(D) His or her parents or guardian.~~

24 ~~(E) The attorneys for the parties, judges, referees, and other~~  
25 ~~hearing officers, probation officers, and law enforcement officers~~  
26 ~~who are actively participating in criminal or juvenile proceedings~~  
27 ~~involving the minor.~~

28 ~~(F) The superintendent or designee of the school district where~~  
29 ~~the minor is enrolled or attending school.~~

30 ~~(G) Members of the agencies authorized to receive mandated~~  
31 ~~reports of suspected child abuse or neglect under Section 11165.9~~  
32 ~~of the Penal Code.~~

33 ~~(H) The State Department of Social Services to carry out its~~  
34 ~~duties pursuant to Division 9 (commencing with Section 10000);~~  
35 ~~and Part 5 (commencing with Section 7900) of Division 12 of the~~  
36 ~~Family Code, to oversee and monitor county child welfare~~  
37 ~~agencies, children in foster care or receiving foster care assistance,~~  
38 ~~and out-of-state placements.~~

39 ~~(I) To authorized legal staff or special investigators who are~~  
40 ~~peace officers who are employed by, or who are authorized~~



1 ~~representatives of, the State Department of Social Services, as~~  
2 ~~necessary to the performance of their duties to inspect, license, and~~  
3 ~~investigate community care facilities, and to ensure that the~~  
4 ~~standards of care and services provided in those facilities are~~  
5 ~~adequate and appropriate and to ascertain compliance with the~~  
6 ~~rules and regulations to which the facilities are subject. The~~  
7 ~~confidential information shall remain confidential except for~~  
8 ~~purposes of inspection, licensing, or investigation pursuant to~~  
9 ~~Chapter 3 (commencing with Section 1500) and Chapter 3.4~~  
10 ~~(commencing with Section 1596.70) of Division 2 of the Health~~  
11 ~~and Safety Code, or a criminal, civil, or administrative proceeding~~  
12 ~~in relation thereto. The confidential information may be used by~~  
13 ~~the State Department of Social Services in a criminal, civil, or~~  
14 ~~administrative proceeding. The confidential information shall be~~  
15 ~~available only to the judge or hearing officer and to the parties to~~  
16 ~~the case. Names that are confidential shall be listed in attachments~~  
17 ~~separate to the general pleadings. The confidential information~~  
18 ~~shall be sealed after the conclusion of the criminal, civil, or~~  
19 ~~administrative hearings, and shall not subsequently be released~~  
20 ~~except in accordance with this subdivision. If the confidential~~  
21 ~~information does not result in a criminal, civil, or administrative~~  
22 ~~proceeding, it shall be sealed after the State Department of Social~~  
23 ~~Services decides that no further action will be taken in the matter~~  
24 ~~of suspected licensing violations. Except as otherwise provided in~~  
25 ~~this subdivision, confidential information in the possession of the~~  
26 ~~State Department of Social Services shall not contain the name of~~  
27 ~~the minor.~~

28 ~~(J) Members of children's multidisciplinary teams, persons or~~  
29 ~~agencies providing treatment or supervision of the minor.~~

30 ~~(K) A judge, commissioner, or other hearing officer assigned~~  
31 ~~to a family law case with issues concerning custody or visitation,~~  
32 ~~or both, involving the minor, and the following persons, if actively~~  
33 ~~participating in the family law case: a family court mediator~~  
34 ~~assigned to a case involving the minor pursuant to Article 1~~  
35 ~~(commencing with Section 3160) of Chapter 11 of Part 2 of~~  
36 ~~Division 8 of the Family Code, a court-appointed evaluator or a~~  
37 ~~person conducting a court-connected child custody evaluation,~~  
38 ~~investigation, or assessment pursuant to Section 3118 of the~~  
39 ~~Family Code, and counsel appointed for the minor in the family~~  
40 ~~law case pursuant to Section 3150 of the Family Code. Prior to~~



1 ~~allowing counsel appointed for the minor in the family law case to~~  
2 ~~inspect the file, the court clerk may require counsel to provide a~~  
3 ~~certified copy of the court order appointing him or her as the~~  
4 ~~minor's counsel.~~

5 ~~(L) Juvenile justice commissions as established under Section~~  
6 ~~225. The confidentiality provisions of Section 10850 shall apply~~  
7 ~~to a juvenile justice commission and its members.~~

8 ~~(M) Any other person who may be designated by court order~~  
9 ~~of the judge of the juvenile court upon filing a petition.~~

10 ~~(2) (A) Notwithstanding any other law and subject to~~  
11 ~~subparagraph (A) of paragraph (3), juvenile case files, except~~  
12 ~~those relating to matters within the jurisdiction of the court~~  
13 ~~pursuant to Section 601 or 602, that pertain to a deceased child who~~  
14 ~~was within the jurisdiction of the juvenile court pursuant to Section~~  
15 ~~300, shall be released to the public pursuant to an order by the~~  
16 ~~juvenile court after a petition has been filed and interested parties~~  
17 ~~have been afforded an opportunity to file an objection. Any~~  
18 ~~information relating to another child or that could identify another~~  
19 ~~child, except for information about the deceased, shall be redacted~~  
20 ~~from the juvenile case file prior to release, unless a specific order~~  
21 ~~is made by the juvenile court to the contrary. Except as provided~~  
22 ~~in this paragraph, the presiding judge of the juvenile court may~~  
23 ~~issue an order prohibiting or limiting access to the juvenile case~~  
24 ~~file, or any portion thereof, of a deceased child only upon a~~  
25 ~~showing that release of the juvenile case file or any portion thereof~~  
26 ~~is detrimental to the safety, protection, or physical, or emotional~~  
27 ~~well-being of another child who is directly or indirectly connected~~  
28 ~~to the juvenile case that is the subject of the petition.~~

29 ~~(B) Notwithstanding subparagraph (A), after the death of the~~  
30 ~~foster child who is a minor, the name, date of birth, and date of~~  
31 ~~death of the child shall be subject to disclosure pursuant to the~~  
32 ~~California Public Records Act (Chapter 3.5 (commencing with~~  
33 ~~Section 6250) of Division 7 of Title 1 of the Government Code).~~

34 ~~(3) Access to juvenile case files pertaining to matters within the~~  
35 ~~jurisdiction of the juvenile court pursuant to Section 300 shall be~~  
36 ~~limited as follows:~~

37 ~~(A) If a juvenile case file, or any portion thereof, is privileged~~  
38 ~~or confidential pursuant to any other state law or federal law or~~  
39 ~~regulation, the requirements of that state law or federal law or~~  
40 ~~regulation prohibiting or limiting release of the juvenile case file~~



1 or any portions thereof shall prevail. Unless a person is listed in  
2 subparagraphs (A) to (L), inclusive, of paragraph (1) and is  
3 entitled to access under the other state law or federal law or  
4 regulation without a court order, all those seeking access, pursuant  
5 to other authorization, to portions of, or information relating to the  
6 contents of, juvenile case files protected under another state law  
7 or federal law or regulation, shall petition the juvenile court. The  
8 juvenile court may only release the portion of, or information  
9 relating to the contents of, juvenile case files protected by another  
10 state law or federal law or regulation if disclosure is not  
11 detrimental to the safety, protection, or physical or emotional  
12 well-being of a child who is directly or indirectly connected to the  
13 juvenile case that is the subject of the petition. This paragraph shall  
14 not be construed to limit the ability of the juvenile court to carry  
15 out its duties in conducting juvenile court proceedings.

16 (B) Prior to the release of the juvenile case file or any portion  
17 thereof, the court shall afford due process, including a notice of  
18 and an opportunity to file an objection to the release of the record  
19 or report to all interested parties.

20 (4) A juvenile case file, any portion thereof, and information  
21 relating to the content of the juvenile case file, shall not be  
22 disseminated by the receiving agencies to any persons or agencies,  
23 other than those persons or agencies authorized to receive  
24 documents pursuant to this section. Further, a juvenile case file,  
25 any portion thereof, and information relating to the content of the  
26 juvenile case file, shall not be made as an attachment to any other  
27 documents without the prior approval of the presiding judge of the  
28 juvenile court, unless it is used in connection with and in the course  
29 of a criminal investigation or a proceeding brought to declare a  
30 person a dependent child or ward of the juvenile court.

31 (b) (1) While the Legislature reaffirms its belief that juvenile  
32 court records, in general, should be confidential, it is the intent of  
33 the Legislature in enacting this subdivision to provide for a limited  
34 exception to juvenile court record confidentiality to promote more  
35 effective communication among juvenile courts, family courts,  
36 law enforcement agencies, and schools to ensure the rehabilitation  
37 of juvenile criminal offenders as well as to lessen the potential for  
38 drug use, violence, other forms of delinquency, and child abuse.

39 (2) (A) Notwithstanding subdivision (a), written notice that a  
40 minor enrolled in a public school, kindergarten to grade 12,



1 inclusive, has been found by a court of competent jurisdiction to  
2 have committed any felony or any misdemeanor involving curfew,  
3 gambling, alcohol, drugs, tobacco products, carrying of weapons,  
4 a sex offense listed in Section 290 of the Penal Code, assault or  
5 battery, larceny, vandalism, or graffiti shall be provided by the  
6 court, within seven days, to the superintendent of the school  
7 district of attendance. Written notice shall include only the offense  
8 found to have been committed by the minor and the disposition of  
9 the minor's case. This notice shall be expeditiously transmitted by  
10 the district superintendent to the principal at the school of  
11 attendance. The principal shall expeditiously disseminate the  
12 information to those counselors directly supervising or reporting  
13 on the behavior or progress of the minor. In addition, the principal  
14 shall disseminate the information to any teacher or administrator  
15 directly supervising or reporting on the behavior or progress of the  
16 minor whom the principal believes needs the information to work  
17 with the pupil in an appropriate fashion, to avoid being needlessly  
18 vulnerable or to protect other persons from needless vulnerability.

19 (B) Any information received by a teacher, counselor, or  
20 administrator under this paragraph shall be received in confidence  
21 for the limited purpose of rehabilitating the minor and protecting  
22 students and staff, and shall not be further disseminated by the  
23 teacher, counselor, or administrator, except insofar as  
24 communication with the juvenile, his or her parents or guardians,  
25 law enforcement personnel, and the juvenile's probation officer is  
26 necessary to effectuate the juvenile's rehabilitation or to protect  
27 students and staff.

28 (C) An intentional violation of the confidentiality provisions of  
29 this paragraph is a misdemeanor punishable by a fine not to exceed  
30 five hundred dollars (\$500).

31 (3) If a minor is removed from public school as a result of the  
32 court's finding described in subparagraph (A) of paragraph (2), the  
33 superintendent shall maintain the information in a confidential file  
34 and shall defer transmittal of the information received from the  
35 court until the minor is returned to public school. If the minor is  
36 returned to a school district other than the one from which the  
37 minor came, the parole or probation officer having jurisdiction  
38 over the minor shall so notify the superintendent of the last district  
39 of attendance, who shall transmit the notice received from the  
40 court to the superintendent of the new district of attendance.



1 ~~(c) Each probation report filed with the court concerning a~~  
2 ~~minor whose record is subject to dissemination pursuant to~~  
3 ~~subdivision (b) shall include on the face sheet the school at which~~  
4 ~~the minor is currently enrolled. The county superintendent shall~~  
5 ~~provide the court with a listing of all of the schools within each~~  
6 ~~school district, within the county, along with the name and mailing~~  
7 ~~address of each district superintendent.~~

8 ~~(d) Each notice sent by the court pursuant to subdivision (b)~~  
9 ~~shall be stamped with the instruction: “Unlawful Dissemination~~  
10 ~~Of This Information Is A Misdemeanor.” Any information~~  
11 ~~received from the court shall be kept in a separate confidential file~~  
12 ~~at the school of attendance and shall be transferred to the minor’s~~  
13 ~~subsequent schools of attendance and maintained until the minor~~  
14 ~~graduates from high school, is released from juvenile court~~  
15 ~~jurisdiction, or reaches the age of 18, whichever occurs first. After~~  
16 ~~that time the confidential record shall be destroyed. At any time~~  
17 ~~after the date by which a record required to be destroyed by this~~  
18 ~~section should have been destroyed, the minor or his or her parent~~  
19 ~~or guardian shall have the right to make a written request to the~~  
20 ~~principal of the school that the minor’s school records be reviewed~~  
21 ~~to ensure that the record has been destroyed. Upon completion of~~  
22 ~~any requested review and no later than 30 days after the request for~~  
23 ~~the review was received, the principal or his or her designee shall~~  
24 ~~respond in writing to the written request and either shall confirm~~  
25 ~~that the record has been destroyed or, if the record has not been~~  
26 ~~destroyed, shall explain why destruction has not yet occurred.~~

27 ~~(e) Except as provided in paragraph (2) of subdivision (b), no~~  
28 ~~liability shall attach to any person who transmits or fails to transmit~~  
29 ~~any notice or information required under subdivision (b).~~

30 ~~(f) For purposes of this section, a “juvenile case file” means a~~  
31 ~~petition filed in any juvenile court proceeding, reports of the~~  
32 ~~probation officer, and all other documents filed in that case or~~  
33 ~~made available to the probation officer in making his or her report,~~  
34 ~~or to the judge, referee, or other hearing officer, and thereafter~~  
35 ~~retained by the probation officer, judge, referee, or other hearing~~  
36 ~~officer.~~

37 SEC. 5. Section 16000.1 is added to the Welfare and  
38 Institutions Code, to read:

39 16000.1. (a) The Legislature finds and declares all of the  
40 following:



1 (1) The state has a special duty to care for and protect the  
2 children that the state places into foster care.

3 (2) A judicial order establishing jurisdiction over a child placed  
4 into foster care supplants or limits parental or previous adult  
5 authority.

6 (3) Accordingly, the state assumes an obligation of the highest  
7 order to ensure the safety of children in foster care.

8 (b) (1) It is the intent of the Legislature that nothing in the  
9 decision of the California Court of Appeal in County of Los  
10 Angeles v. Superior Court of Los Angeles: Real Party in Interest  
11 Terrell R. (2002) 102 Cal.App.4th 627, shall be held to change the  
12 standards of liability and immunity for injuries to children in  
13 protective custody that existed prior to that decision.

14 (2) It is the intent of the Legislature to confirm the state's duty  
15 to comply with all requirements under Part B of Title IV of the  
16 Social Security Act (42 U.S.C. Sec. 620 et seq.) and Part E of Title  
17 IV of the Social Security Act (42 U.S.C. Sec. 670 et seq.) that are  
18 relevant to the protection and welfare of children in foster care.

19 SEC. 6. Section 16501.1 of the Welfare and Institutions Code  
20 is amended to read:

21 16501.1. (a) The Legislature finds and declares that the  
22 foundation and central unifying tool in child welfare services is the  
23 case plan.

24 (b) The Legislature further finds and declares that a case plan  
25 ensures that the child receives protection and safe and proper care  
26 and case management, and that services are provided to the child  
27 and parents or other caretakers as appropriate in order to improve  
28 conditions in the parent's home, to facilitate the safe return of the  
29 child to a safe home or the permanent placement of the child, and  
30 to address the needs of the child while in foster care. A case plan  
31 shall be based upon the principles set forth in this section and shall  
32 document that a preplacement assessment of the service needs of  
33 the child and family, and preplacement preventive services, have  
34 been provided, and that reasonable efforts to prevent out-of-home  
35 placement have been made. In determining the reasonable services  
36 to be offered or provided, the child's health and safety shall be the  
37 paramount concerns. Reasonable services shall be offered or  
38 provided to make it possible for a child to return to a safe home  
39 environment, unless, pursuant to subdivisions (b) and (e) of  
40 Section 361.5, the court determines that reunification services



1 shall not be provided. If reasonable services are not ordered, or are  
2 terminated, reasonable efforts shall be made to place the child in  
3 a timely manner in accordance with the permanent plan and to  
4 complete all steps necessary to finalize the permanent placement  
5 of the child.

6 (c) When out-of-home placement is used to attain case plan  
7 goals, the decision regarding choice of placement shall be based  
8 upon selection of a safe setting that is the least restrictive or most  
9 familylike and the most appropriate setting that is available and in  
10 close proximity to the parent's home, consistent with the selection  
11 of the environment best suited to meet the child's special needs and  
12 best interest, or both. The selection shall consider, in order of  
13 priority, placement with relatives, tribal members, and foster  
14 family, group care, and residential treatment pursuant to Section  
15 7950 of the Family Code.

16 (d) As used in subdivisions (b) and (c), a home or setting that  
17 is "safe" means that the home or setting is free from abuse *or*  
18 *neglect*, as described in Section 11165.5 of the Penal Code.

19 (e) A written case plan shall be completed within 30 days of the  
20 initial removal of the child or of the in-person response required  
21 under subdivision (f) of Section 16501 if the child has not been  
22 removed from his or her home, or by the date of the dispositional  
23 hearing pursuant to Section 358, whichever occurs first. The case  
24 plan shall be updated, as the service needs of the child and family  
25 dictate. At a minimum, the case plan shall be updated in  
26 conjunction with each status review hearing conducted pursuant  
27 to Section 366.21, and the hearing conducted pursuant to Section  
28 366.26, but no less frequently than once every six months. Each  
29 updated case plan shall include a description of the services that  
30 have been provided to the child under the plan and an evaluation  
31 of the appropriateness and effectiveness of those services.

32 (f) The child welfare services case plan shall be comprehensive  
33 enough to meet the juvenile court dependency proceedings  
34 requirements pursuant to Article 6 (commencing with Section  
35 300) of Chapter 2 of Part 1 of Division 2.

36 (g) The case plan shall be developed as follows:

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

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



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

8 (4) The case plan shall include a description of the schedule of  
9 the social worker contacts with the child and the family or other  
10 caretakers. The frequency of these contacts shall be in accordance  
11 with regulations adopted by the State Department of Social  
12 Services. If the child has been placed in foster care out of state, the  
13 county social worker or a social worker on the staff of the social  
14 service agency in the state in which the child has been placed shall  
15 visit the child in a foster family home or the home of a relative at  
16 least every 12 months and submit a report to the court on each visit.  
17 For children in out-of-state group home facilities, visits shall be  
18 conducted at least monthly, pursuant to Section 16516.5. At least  
19 once every six months, at the time of a regularly scheduled social  
20 worker contact with the foster child, the child's social worker shall  
21 inform the child of his or her rights as a foster child, as specified  
22 in Section 16001.9. The social worker shall provide the  
23 information to the child in a manner appropriate to the age or  
24 developmental level of the child.

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

30 (6) When out-of-home placement is made, the case plan shall  
31 include provisions for the development and maintenance of sibling  
32 relationships as specified in subdivisions (b), (c), and (d) of  
33 Section 16002. If appropriate, when siblings who are dependents  
34 of the juvenile court are not placed together, the social worker for  
35 each child, if different, shall communicate with each of the other  
36 social workers and ensure that the child's siblings are informed of  
37 significant life events that occur within their extended family.  
38 Unless it has been determined that it is inappropriate in a particular  
39 case to keep siblings informed of significant life events that occur  
40 within the extended family, the social worker shall determine the



1 appropriate means and setting for disclosure of this information to  
2 the child commensurate with the child's age and emotional  
3 well-being. These significant life events shall include, but shall not  
4 be limited to, the following:

5 (A) The death of an immediate relative.

6 (B) The birth of a sibling.

7 (C) Significant changes regarding a dependent child, unless the  
8 child objects to the sharing of the information with his or her  
9 siblings, including changes in placement, major medical or mental  
10 health diagnoses, treatments, or hospitalizations, arrests, and  
11 changes in the permanent plan.

12 (7) When out-of-home placement is made in a foster family  
13 home, group home or other child care institution that is either a  
14 substantial distance from the home of the child's parent or out of  
15 state, the case plan shall specify the reasons why that placement is  
16 in the best interest of the child. When an out-of-state group home  
17 placement is recommended or made, the case plan shall, in  
18 addition, specify compliance with Section 7911.1 of the Family  
19 Code.

20 (8) When out-of-home services are used, or when parental  
21 rights have been terminated and the case plan is placement for  
22 adoption, the case plan shall include a recommendation regarding  
23 the appropriateness of unsupervised visitation between the child  
24 and any of the child's siblings. This recommendation shall include  
25 a statement regarding the child's and the siblings' willingness to  
26 participate in unsupervised visitation. If the case plan includes a  
27 recommendation for unsupervised sibling visitation, the plan shall  
28 also note that information necessary to accomplish this visitation  
29 has been provided to the child or to the child's siblings.

30 (9) When out-of-home services are used and the goal is  
31 reunification, the case plan shall describe the services to be  
32 provided to assist in reunification and the services to be provided  
33 concurrently to achieve legal permanency if efforts to reunify fail.  
34 The plan shall also consider the importance of developing and  
35 maintaining sibling relationships pursuant to Section 16002.

36 (10) When out-of-home services are used, the child has been in  
37 care for at least 12 months, and the goal is not adoptive placement,  
38 the case plan shall include documentation of the compelling reason  
39 or reasons why termination of parental rights is not in the child's  
40 best interest. A determination completed or updated within the



1 past 12 months by the department when it is acting as an adoption  
2 agency or by a licensed adoption agency that it is unlikely that the  
3 child will be adopted, or that one of the conditions described in  
4 paragraph (1) of subdivision (c) of Section 366.26 applies, shall be  
5 deemed a compelling reason.

6 (11) (A) Parents and legal guardians shall have an opportunity  
7 to review the case plan, sign it whenever possible, and then shall  
8 receive a copy of the plan. In any voluntary service or placement  
9 agreement, the parents or legal guardians shall be required to  
10 review and sign the case plan. Whenever possible, parents and  
11 legal guardians shall participate in the development of the case  
12 plan.

13 (B) Parents and legal guardians shall be advised that, pursuant  
14 to Section 1228.1 of the Evidence Code, neither their signature on  
15 the child welfare services case plan nor their acceptance of any  
16 services prescribed in the child welfare services case plan shall  
17 constitute an admission of guilt or be used as evidence against the  
18 parent or legal guardian in a court of law. However, they shall also  
19 be advised that the parent's or guardian's failure to cooperate,  
20 except for good cause, in the provision of services specified in the  
21 child welfare services case plan may be used in any hearing held  
22 pursuant to Section 366.21 or 366.22 as evidence.

23 (12) The case plan shall be included in the court report and shall  
24 be considered by the court at the initial hearing and each review  
25 hearing. Modifications to the case plan made during the period  
26 between review hearings need not be approved by the court if the  
27 casework supervisor for that case determines that the  
28 modifications further the goals of the plan. When out-of-home  
29 services are used with the goal of family reunification, the case  
30 plan shall consider and describe the application of subdivision (b)  
31 of Section 11203.

32 (13) When the case plan has as its goal for the child a permanent  
33 plan of adoption or placement in another permanent home, it shall  
34 include documentation of the steps the agency is taking to find an  
35 adoptive family or other permanent living arrangements for the  
36 child; to place the child with an adoptive family, an appropriate  
37 and willing relative, a legal guardian, or in another planned  
38 permanent living arrangement; and to finalize the adoption or legal  
39 guardianship. At a minimum, the documentation shall include  
40 child specific recruitment efforts, such as the use of state, regional,



1 and national adoption exchanges, including electronic exchange  
2 systems, when the child has been freed for adoption.

3 (h) If the court finds, after considering the case plan, that  
4 unsupervised sibling visitation is appropriate and has been  
5 consented to, the court shall order that the child or the child's  
6 siblings, and the child's prospective adoptive parents, if  
7 applicable, be provided with information necessary to accomplish  
8 this visitation. Nothing in this section shall be construed to require  
9 or prohibit the social worker's facilitation, transportation, or  
10 supervision of visits between the child and his or her siblings.

11 (i) The case plan documentation on sibling placements  
12 required under this section shall not require modification of  
13 existing case plan forms until the Child Welfare Services Case  
14 Management System is implemented on a statewide basis.

15 (j) The department, in consultation with the County Welfare  
16 Directors Association and other advocates, shall develop  
17 standards and guidelines for a model relative placement search and  
18 assessment process based on the criteria established in Section  
19 361.3. These guidelines shall be incorporated in the training  
20 described in Section 16206. These model standards and guidelines  
21 shall be developed by March 1, 1999.

22 SEC. 7. The Legislature finds and declares that the  
23 amendments to Section 16501.1 of the Welfare and Institutions  
24 Code made by Section 6 of this act are declaratory of existing law.

