

AMENDED IN ASSEMBLY APRIL 17, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2651

Introduced by Assembly Member Aghazarian

February 22, 2008

An act to amend Sections 1522 and 1522.1 of the Health and Safety Code, to amend Sections 11167.5 and 11170 of the Penal Code, and to amend Sections 309, 361.4, and 16501.1 of the Welfare and Institutions Code, relating to children, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2651, as amended, Aghazarian. Foster care: ~~dependant children~~ *dependent children.*

(1) Existing law requires a criminal record check of applicants for a license, special permit, or certificate of approval for a foster family home or certified family home, and other persons, including nonclients who reside in those homes and staff and employees. Existing law requires that an application be denied, unless the Director of Social Services grants an exemption, if it is found that the applicant or any of the other designated persons has been convicted of prescribed crimes.

This bill would, to the same extent required for federal funding, effective October 1, 2008, prohibit the director from granting an exemption where an applicant or any of the other designated persons have been convicted of certain felonies at any time and other felonies in the previous 5 years.

(2) Existing law requires certain individuals and agencies to report known or suspected incidents of child abuse and neglect to the Department of Justice. The department may disclose those reports only in specified circumstances, including to out-of-state agencies responsible for approving prospective foster or adoptive parents or relative caregivers.

Existing law requires the department to maintain an index of all reports of abuse and severe neglect submitted by agencies and found by the submitting agency to be not unfounded. Existing law requires this index to be made available to out-of-state agencies for the purpose of approving a prospective foster or adoptive parent or relative caregiver for placement of a child.

This bill would eliminate the authority of the department to disclose reports and make the index available to out-of-state agencies that are approving placement for prospective relative caregivers.

(3) Existing law sets forth circumstances ~~for when~~ *under which* a minor may be adjudged a dependent child of the juvenile court, and establishes procedures to determine the temporary placement of a dependent child.

Existing law authorizes temporary placement of a dependent child in the home of an able and willing relative, or an able and willing nonrelative extended family member, upon completion of an assessment of the suitability of the relative or nonrelative extended family member by the county welfare department. Existing law also requires the county welfare department to initiate a criminal records check through the California Law Enforcement Telecommunications System before placing the child.

This bill would prohibit temporary placement of a child in the home of a person if the criminal records check shows that person has been convicted of a crime for which the Director of Social Services cannot grant an exemption with respect to foster family home and certified family home applicants.

This bill would also prohibit temporary placement of a minor child in the home of a person who has been convicted of a crime for which the director may grant an exemption unless a criminal records exemption has been granted by the county based on substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child.

(4) Existing law requires a county social worker to visit the home of a relative or prospective guardian who is not a licensed or certified foster parent, prior to placing the child in that home, to ascertain the appropriateness of the placement. Existing law also requires the court or county social worker to initiate a state and federal criminal records check through the California Law Enforcement Telecommunications System as part of their assessment.

This bill would prohibit placement of the child in the home of a person if the criminal records check indicates the person has been convicted of a crime that the Director of Social Services cannot grant an exemption for with respect to foster family home and certified family home applicants.

This bill would also prohibit placement of a child in the home of a person who has been convicted of a crime that the Director of Social Services may grant an exemption for unless a criminal records exemption has been granted by the county, based on substantial and convincing evidence, to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child.

(5) Under existing law, when a child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed is required to visit the child in a foster family home or the home of a relative at least every 12 months and submit a report to the court regarding each visit.

This bill would, instead, require these duties to be performed in a manner consistent with federal law and in accordance with the department's approved state plan.

To the extent this bill would impose additional duties on county welfare departments, this bill would create a state-mandated local program.

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.

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.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. 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 1522 of the Health and Safety Code is
2 amended to read:
3 1522. The Legislature recognizes the need to generate timely
4 and accurate positive fingerprint identification of applicants as a
5 condition of issuing licenses, permits, or certificates of approval
6 for persons to operate or provide direct care services in a
7 community care facility, foster family home, or a certified family
8 home of a licensed foster family agency. Therefore, the Legislature
9 supports the use of the fingerprint live-scan technology, as
10 identified in the long-range plan of the Department of Justice for
11 fully automating the processing of fingerprints and other data by
12 the year 1999, otherwise known as the California Crime
13 Information Intelligence System (CAL-CII), to be used for
14 applicant fingerprints. It is the intent of the Legislature in enacting
15 this section to require the fingerprints of those individuals whose
16 contact with community care clients may pose a risk to the clients'
17 health and safety. An individual shall be required to obtain either
18 a criminal record clearance or a criminal record exemption from
19 the State Department of Social Services before his or her initial
20 presence in a community care facility.
21 (a) (1) Before issuing a license or special permit to any person
22 or persons to operate or manage a community care facility, the
23 State Department of Social Services shall secure from an
24 appropriate law enforcement agency a criminal record to determine
25 whether the applicant or any other person specified in subdivision
26 (b) has ever been convicted of a crime other than a minor traffic
27 violation or arrested for any crime specified in Section 290 of the
28 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
29 subdivision (b) of Section 273a of the Penal Code, or, prior to
30 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
31 or for any crime for which the department cannot grant an
32 exemption if the person was convicted and the person has not been
33 exonerated.

1 (2) The criminal history information shall include the full
2 criminal record, if any, of those persons, and subsequent arrest
3 information pursuant to Section 11105.2 of the Penal Code.

4 (3) Except during the 2003–04, 2004–05, 2005–06, 2006–07,
5 and 2007–08 fiscal years, neither the Department of Justice nor
6 the State Department of Social Services may charge a fee for the
7 fingerprinting of an applicant for a license or special permit to
8 operate a facility providing nonmedical board, room, and care for
9 six or less children or for obtaining a criminal record of the
10 applicant pursuant to this section.

11 (4) The following shall apply to the criminal record information:

12 (A) If the State Department of Social Services finds that the
13 applicant, or any other person specified in subdivision (b), has
14 been convicted of a crime other than a minor traffic violation, the
15 application shall be denied, unless the director grants an exemption
16 pursuant to subdivision (g).

17 (B) If the State Department of Social Services finds that the
18 applicant, or any other person specified in subdivision (b) is
19 awaiting trial for a crime other than a minor traffic violation, the
20 State Department of Social Services may cease processing the
21 application until the conclusion of the trial.

22 (C) If no criminal record information has been recorded, the
23 Department of Justice shall provide the applicant and the State
24 Department of Social Services with a statement of that fact.

25 (D) If the State Department of Social Services finds after
26 licensure that the licensee, or any other person specified in
27 paragraph (1) of subdivision (b), has been convicted of a crime
28 other than a minor traffic violation, the license may be revoked,
29 unless the director grants an exemption pursuant to subdivision
30 (g).

31 (E) An applicant and any other person specified in subdivision
32 (b) shall submit fingerprint images and related information to the
33 Department of Justice for the purpose of searching the criminal
34 records of the Federal Bureau of Investigation, in addition to the
35 criminal records search required by this subdivision. If an applicant
36 and all other persons described in subdivision (b) meet all of the
37 conditions for licensure, except receipt of the Federal Bureau of
38 Investigation's criminal offender record information search
39 response for the applicant or any of the persons described in
40 subdivision (b), the department may issue a license if the applicant

1 and each person described in subdivision (b) has signed and
2 submitted a statement that he or she has never been convicted of
3 a crime in the United States, other than a traffic infraction, as
4 defined in paragraph (1) of subdivision (a) of Section 42001 of
5 the Vehicle Code. If, after licensure, the department determines
6 that the licensee or any other person specified in subdivision (b)
7 has a criminal record, the license may be revoked pursuant to
8 Section 1550. The department may also suspend the license
9 pending an administrative hearing pursuant to Section 1550.5.

10 (F) The State Department of Social Services shall develop
11 procedures to provide the individual's state and federal criminal
12 history information with the written notification of his or her
13 exemption denial or revocation based on the criminal record.
14 Receipt of the criminal history information shall be optional on
15 the part of the individual, as set forth in the agency's procedures.
16 The procedure shall protect the confidentiality and privacy of the
17 individual's record, and the criminal history information shall not
18 be made available to the employer.

19 (G) Notwithstanding any other provision of law, the department
20 is authorized to provide an individual with a copy of his or her
21 state or federal level criminal offender record information search
22 response as provided to that department by the Department of
23 Justice if the department has denied a criminal background
24 clearance based on this information and the individual makes a
25 written request to the department for a copy specifying an address
26 to which it is to be sent. The state or federal level criminal offender
27 record information search response shall not be modified or altered
28 from its form or content as provided by the Department of Justice
29 and shall be provided to the address specified by the individual in
30 his or her written request. The department shall retain a copy of
31 the individual's written request and the response and date provided.

32 (b) (1) In addition to the applicant, this section shall be
33 applicable to criminal convictions of the following persons:

34 (A) Adults responsible for administration or direct supervision
35 of staff.

36 (B) Any person, other than a client, residing in the facility.

37 (C) Any person who provides client assistance in dressing,
38 grooming, bathing, or personal hygiene. Any nurse assistant or
39 home health aide meeting the requirements of Section 1338.5 or
40 1736.6, respectively, who is not employed, retained, or contracted

1 by the licensee, and who has been certified or recertified on or
2 after July 1, 1998, shall be deemed to meet the criminal record
3 clearance requirements of this section. A certified nurse assistant
4 and certified home health aide who will be providing client
5 assistance and who falls under this exemption shall provide one
6 copy of his or her current certification, prior to providing care, to
7 the community care facility. The facility shall maintain the copy
8 of the certification on file as long as care is being provided by the
9 certified nurse assistant or certified home health aide at the facility.
10 Nothing in this paragraph restricts the right of the department to
11 exclude a certified nurse assistant or certified home health aide
12 from a licensed community care facility pursuant to Section 1558.

13 (D) Any staff person, volunteer, or employee who has contact
14 with the clients.

15 (E) If the applicant is a firm, partnership, association, or
16 corporation, the chief executive officer or other person serving in
17 like capacity.

18 (F) Additional officers of the governing body of the applicant,
19 or other persons with a financial interest in the applicant, as
20 determined necessary by the department by regulation. The criteria
21 used in the development of these regulations shall be based on the
22 person's capability to exercise substantial influence over the
23 operation of the facility.

24 (2) The following persons are exempt from the requirements
25 applicable under paragraph (1):

26 (A) A medical professional as defined in department regulations
27 who holds a valid license or certification from the person's
28 governing California medical care regulatory entity and who is
29 not employed, retained, or contracted by the licensee if all of the
30 following apply:

31 (i) The criminal record of the person has been cleared as a
32 condition of licensure or certification by the person's governing
33 California medical care regulatory entity.

34 (ii) The person is providing time-limited specialized clinical
35 care or services.

36 (iii) The person is providing care or services within the person's
37 scope of practice.

38 (iv) The person is not a community care facility licensee or an
39 employee of the facility.

- 1 (B) A third-party repair person or similar retained contractor if
2 all of the following apply:
- 3 (i) The person is hired for a defined, time-limited job.
 - 4 (ii) The person is not left alone with clients.
 - 5 (iii) When clients are present in the room in which the
6 repairperson or contractor is working, a staff person who has a
7 criminal record clearance or exemption is also present.
- 8 (C) Employees of a licensed home health agency and other
9 members of licensed hospice interdisciplinary teams who have a
10 contract with a client or resident of the facility and are in the
11 facility at the request of that client or resident's legal
12 decisionmaker. The exemption does not apply to a person who is
13 a community care facility licensee or an employee of the facility.
- 14 (D) Clergy and other spiritual caregivers who are performing
15 services in common areas of the community care facility or who
16 are advising an individual client at the request of, or with the
17 permission of, the client or legal decisionmaker, are exempt from
18 fingerprint and criminal background check requirements imposed
19 by community care licensing. This exemption does not apply to a
20 person who is a community care licensee or employee of the
21 facility.
- 22 (E) Members of fraternal, service, or similar organizations who
23 conduct group activities for clients if all of the following apply:
- 24 (i) Members are not left alone with clients.
 - 25 (ii) Members do not transport clients off the facility premises.
 - 26 (iii) The same organization does not conduct group activities
27 for clients more often than defined by the department's regulations.
- 28 (3) In addition to the exemptions in paragraph (2), the following
29 persons in foster family homes, certified family homes, and small
30 family homes are exempt from the requirements applicable under
31 paragraph (1):
- 32 (A) Adult friends and family of the licensed or certified foster
33 parent, who come into the home to visit for a length of time no
34 longer than defined by the department in regulations, provided
35 that the adult friends and family of the licensee are not left alone
36 with the foster children. However, the licensee, acting as a
37 reasonable and prudent parent, as defined in paragraph (2) of
38 subdivision (a) of Section 362.04 of the Welfare and Institutions
39 Code, may allow his or her adult friends and family to provide

1 short-term care to the foster child and act as an appropriate
2 occasional short-term babysitter for the child.

3 (B) Parents of a foster child’s friend when the foster child is
4 visiting the friend’s home and the friend, licensed or certified foster
5 parent, or both are also present. However, the licensee, acting as
6 a reasonable and prudent parent, may allow the parent of the foster
7 child’s friend to act as an appropriate short-term babysitter for the
8 child without the friend being present.

9 (C) Individuals who are engaged by any licensed or certified
10 foster parent to provide short-term care to the child for periods not
11 to exceed 24 hours. Caregivers shall use a reasonable and prudent
12 parent standard in selecting appropriate individuals to act as
13 appropriate occasional short-term babysitters.

14 (4) In addition to the exemptions specified in paragraph (2), the
15 following persons in adult day care and adult day support centers
16 are exempt from the requirements applicable under paragraph (1):

17 (A) Unless contraindicated by the client’s individualized
18 program plan (IPP) or needs and service plan, a spouse, significant
19 other, relative, or close friend of a client, or an attendant or a
20 facilitator for a client with a developmental disability if the
21 attendant or facilitator is not employed, retained, or contracted by
22 the licensee. This exemption applies only if the person is visiting
23 the client or providing direct care and supervision to the client.

24 (B) A volunteer if all of the following applies:

25 (i) The volunteer is supervised by the licensee or a facility
26 employee with a criminal record clearance or exemption.

27 (ii) The volunteer is never left alone with clients.

28 (iii) The volunteer does not provide any client assistance with
29 dressing, grooming, bathing, or personal hygiene other than
30 washing of hands.

31 (5) (A) In addition to the exemptions specified in paragraph
32 (2), the following persons in adult residential and social
33 rehabilitation facilities, unless contraindicated by the client’s
34 individualized program plan (IPP) or needs and services plan, are
35 exempt from the requirements applicable under paragraph (1): a
36 spouse, significant other, relative, or close friend of a client, or an
37 attendant or a facilitator for a client with a developmental disability
38 if the attendant or facilitator is not employed, retained, or
39 contracted by the licensee. This exemption applies only if the

1 person is visiting the client or providing direct care and supervision
2 to that client.

3 (B) Nothing in this subdivision shall prevent a licensee from
4 requiring a criminal record clearance of any individual exempt
5 from the requirements of this section, provided that the individual
6 has client contact.

7 (6) Any person similar to those described in this subdivision,
8 as defined by the department in regulations.

9 (c) (1) Subsequent to initial licensure, any person specified in
10 subdivision (b) and not exempted from fingerprinting shall, as a
11 condition to employment, residence, or presence in a community
12 care facility, be fingerprinted and sign a declaration under penalty
13 of perjury regarding any prior criminal convictions. The licensee
14 shall submit fingerprint images and related information to the
15 Department of Justice and the Federal Bureau of Investigation,
16 through the Department of Justice, for a state and federal level
17 criminal offender record information search, or to comply with
18 paragraph (1) of subdivision (h), prior to the person's employment,
19 residence, or initial presence in the community care facility. These
20 fingerprint images and related information shall be sent by
21 electronic transmission in a manner approved by the State
22 Department of Social Services and the Department of Justice for
23 the purpose of obtaining a permanent set of fingerprints, and shall
24 be submitted to the Department of Justice by the licensee. A
25 licensee's failure to submit fingerprints to the Department of Justice
26 or to comply with paragraph (1) of subdivision (h), as required in
27 this section, shall result in the citation of a deficiency and the
28 immediate assessment of civil penalties in the amount of one
29 hundred dollars (\$100) per violation per day for a maximum of
30 five days, unless the violation is a second or subsequent violation
31 within a 12-month period in which case the civil penalties shall
32 be in the amount of one hundred dollars (\$100) per violation for
33 a maximum of 30 days, and shall be grounds for disciplining the
34 licensee pursuant to Section 1550. The department may assess
35 civil penalties for continued violations as permitted by Section
36 1548. The fingerprint images and related information shall then
37 be submitted to the Department of Justice for processing. Upon
38 request of the licensee, who shall enclose a self-addressed stamped
39 postcard for this purpose, the Department of Justice shall verify
40 receipt of the fingerprints.

1 (2) Within 14 calendar days of the receipt of the fingerprint
2 images, the Department of Justice shall notify the State Department
3 of Social Services of the criminal record information, as provided
4 for in subdivision (a). If no criminal record information has been
5 recorded, the Department of Justice shall provide the licensee and
6 the State Department of Social Services with a statement of that
7 fact within 14 calendar days of receipt of the fingerprint images.
8 Documentation of the individual's clearance or exemption shall
9 be maintained by the licensee and be available for inspection. If
10 new fingerprint images are required for processing, the Department
11 of Justice shall, within 14 calendar days from the date of receipt
12 of the fingerprints, notify the licensee that the fingerprints were
13 illegible, the Department of Justice shall notify the State
14 Department of Social Services, as required by Section 1522.04,
15 and shall also notify the licensee by mail, within 14 days of
16 electronic transmission of the fingerprints to the Department of
17 Justice, if the person has no criminal history recorded. A violation
18 of the regulations adopted pursuant to Section 1522.04 shall result
19 in the citation of a deficiency and an immediate assessment of civil
20 penalties in the amount of one hundred dollars (\$100) per violation
21 per day for a maximum of five days, unless the violation is a second
22 or subsequent violation within a 12-month period in which case
23 the civil penalties shall be in the amount of one hundred dollars
24 (\$100) per violation for a maximum of 30 days, and shall be
25 grounds for disciplining the licensee pursuant to Section 1550.
26 The department may assess civil penalties for continued violations
27 as permitted by Section 1548.

28 (3) Except for persons specified in paragraph (2) of subdivision
29 (b), the licensee shall endeavor to ascertain the previous
30 employment history of persons required to be fingerprinted under
31 this subdivision. If it is determined by the State Department of
32 Social Services, on the basis of the fingerprint images and related
33 information submitted to the Department of Justice, that the person
34 has been convicted of, or is awaiting trial for, a sex offense against
35 a minor, or has been convicted for an offense specified in Section
36 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
37 the State Department of Social Services shall notify the licensee
38 to act immediately to terminate the person's employment, remove
39 the person from the community care facility, or bar the person
40 from entering the community care facility. The State Department

1 of Social Services may subsequently grant an exemption pursuant
2 to subdivision (g). If the conviction or arrest was for another crime,
3 except a minor traffic violation, the licensee shall, upon notification
4 by the State Department of Social Services, act immediately to
5 either (A) terminate the person's employment, remove the person
6 from the community care facility, or bar the person from entering
7 the community care facility; or (B) seek an exemption pursuant to
8 subdivision (g). The State Department of Social Services shall
9 determine if the person shall be allowed to remain in the facility
10 until a decision on the exemption is rendered. A licensee's failure
11 to comply with the department's prohibition of employment,
12 contact with clients, or presence in the facility as required by this
13 paragraph shall be grounds for disciplining the licensee pursuant
14 to Section 1550.

15 (4) The department may issue an exemption on its own motion
16 pursuant to subdivision (g) if the person's criminal history indicates
17 that the person is of good character based on the age, seriousness,
18 and frequency of the conviction or convictions. The department,
19 in consultation with interested parties, shall develop regulations
20 to establish the criteria to grant an exemption pursuant to this
21 paragraph.

22 (5) Concurrently with notifying the licensee pursuant to
23 paragraph (3), the department shall notify the affected individual
24 of his or her right to seek an exemption pursuant to subdivision
25 (g). The individual may seek an exemption only if the licensee
26 terminates the person's employment or removes the person from
27 the facility after receiving notice from the department pursuant to
28 paragraph (3).

29 (d) (1) Before issuing a license, special permit, or certificate
30 of approval to any person or persons to operate or manage a foster
31 family home or certified family home as described in Section 1506,
32 the State Department of Social Services or other approving
33 authority shall secure from an appropriate law enforcement agency
34 a criminal record to determine whether the applicant or any person
35 specified in subdivision (b) has ever been convicted of a crime
36 other than a minor traffic violation or arrested for any crime
37 specified in subdivision (c) of Section 290 of the Penal Code, for
38 violating Section 245 or 273.5, subdivision (b) of Section 273a or,
39 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
40 Code, or for any crime for which the department cannot grant an

1 exemption if the person was convicted and the person has not been
2 exonerated.

3 (2) The criminal history information shall include the full
4 criminal record, if any, of those persons.

5 (3) Neither the Department of Justice nor the State Department
6 of Social Services may charge a fee for the fingerprinting of an
7 applicant for a license, special permit, or certificate of approval
8 described in this subdivision. The record, if any, shall be taken
9 into consideration when evaluating a prospective applicant.

10 (4) The following shall apply to the criminal record information:

11 (A) If the applicant or other persons specified in subdivision
12 (b) have convictions that would make the applicant's home unfit
13 as a foster family home or a certified family home, the license,
14 special permit, or certificate of approval shall be denied.

15 (B) If the State Department of Social Services finds that the
16 applicant, or any person specified in subdivision (b) is awaiting
17 trial for a crime other than a minor traffic violation, the State
18 Department of Social Services or other approving authority may
19 cease processing the application until the conclusion of the trial.

20 (C) For the purposes of this subdivision, a criminal record
21 clearance provided under Section 8712 of the Family Code may
22 be used by the department or other approving agency.

23 (D) To the same extent required for federal funding, an applicant
24 for a foster family home license or for certification as a family
25 home, and any other person specified in subdivision (b), shall
26 submit a set of fingerprint images and related information to the
27 Department of Justice and the Federal Bureau of Investigation,
28 through the Department of Justice, for a state and federal level
29 criminal offender record information search, in addition to the
30 criminal records search required by subdivision (a).

31 (5) Any person specified in this subdivision shall, as a part of
32 the application, be fingerprinted and sign a declaration under
33 penalty of perjury regarding any prior criminal convictions or
34 arrests for any crime against a child, spousal or cohabitant abuse
35 or, any crime for which the department cannot grant an exemption
36 if the person was convicted and shall submit these fingerprints to
37 the licensing agency or other approving authority.

38 (6) (A) The foster family agency shall obtain fingerprint images
39 and related information from certified home applicants and from
40 persons specified in subdivision (b) and shall submit them directly

1 to the Department of Justice by electronic transmission in a manner
2 approved by the State Department of Social Services and the
3 Department of Justice. A foster family home licensee or foster
4 family agency shall submit these fingerprint images and related
5 information to the Department of Justice and the Federal Bureau
6 of Investigation, through the Department of Justice, for a state and
7 federal level criminal offender record information search, or to
8 comply with paragraph (1) of subdivision (b) prior to the person's
9 employment, residence, or initial presence in the foster family
10 home or certified family home. A foster family agency's failure
11 to submit fingerprint images and related information to the
12 Department of Justice, or comply with paragraph (1) of subdivision
13 (h), as required in this section, shall result in a citation of a
14 deficiency, and the immediate civil penalties of one hundred dollars
15 (\$100) per violation per day for a maximum of five days, unless
16 the violation is a second or subsequent violation within a 12-month
17 period in which case the civil penalties shall be in the amount of
18 one hundred dollars (\$100) per violation for a maximum of 30
19 days, and shall be grounds for disciplining the licensee pursuant
20 to Section 1550. A violation of the regulation adopted pursuant to
21 Section 1522.04 shall result in the citation of a deficiency and an
22 immediate assessment of civil penalties in the amount of one
23 hundred dollars (\$100) per violation per day for a maximum of
24 five days, unless the violation is a second or subsequent violation
25 within a 12-month period in which case the civil penalties shall
26 be in the amount of one hundred dollars (\$100) per violation for
27 a maximum of 30 days, and shall be grounds for disciplining the
28 foster family agency pursuant to Section 1550. A licensee's failure
29 to submit fingerprint images and related information to the
30 Department of Justice, or comply with paragraph (1) of subdivision
31 (h), as required in this section, may result in the citation of a
32 deficiency and immediate civil penalties of one hundred dollars
33 (\$100) per violation. A licensee's violation of regulations adopted
34 pursuant to Section 1522.04 may result in the citation of a
35 deficiency and an immediate assessment of civil penalties in the
36 amount of one hundred dollars (\$100) per violation. The State
37 Department of Social Services may assess penalties for continued
38 violations, as permitted by Section 1548. The fingerprint images
39 shall then be submitted to the Department of Justice for processing.

1 (B) Upon request of the licensee, who shall enclose a
2 self-addressed envelope for this purpose, the Department of Justice
3 shall verify receipt of the fingerprints. Within five working days
4 of the receipt of the criminal record or information regarding
5 criminal convictions from the Department of Justice, the
6 department shall notify the applicant of any criminal arrests or
7 convictions. If no arrests or convictions are recorded, the
8 Department of Justice shall provide the foster family home licensee
9 or the foster family agency with a statement of that fact concurrent
10 with providing the information to the State Department of Social
11 Services.

12 (7) If the State Department of Social Services finds that the
13 applicant, or any other person specified in subdivision (b), has
14 been convicted of a crime other than a minor traffic violation, the
15 application shall be denied, unless the director grants an exemption
16 pursuant to subdivision (g).

17 (8) If the State Department of Social Services finds after
18 licensure or the granting of the certificate of approval that the
19 licensee, certified foster parent, or any other person specified in
20 paragraph (1) of subdivision (b), has been convicted of a crime
21 other than a minor traffic violation, the license or certificate of
22 approval may be revoked by the department or the foster family
23 agency, whichever is applicable, unless the director grants an
24 exemption pursuant to subdivision (g). A licensee's failure to
25 comply with the department's prohibition of employment, contact
26 with clients, or presence in the facility as required by paragraph
27 (3) of subdivision (c) shall be grounds for disciplining the licensee
28 pursuant to Section 1550.

29 (e) The State Department of Social Services may not use a
30 record of arrest to deny, revoke, or terminate any application,
31 license, employment, or residence unless the department
32 investigates the incident and secures evidence, whether or not
33 related to the incident of arrest, that is admissible in an
34 administrative hearing to establish conduct by the person that may
35 pose a risk to the health and safety of any person who is or may
36 become a client. The State Department of Social Services is
37 authorized to obtain any arrest or conviction records or reports
38 from any law enforcement agency as necessary to the performance
39 of its duties to inspect, license, and investigate community care
40 facilities and individuals associated with a community care facility.

1 (f) (1) For purposes of this section or any other provision of
2 this chapter, a conviction means a plea or verdict of guilty or a
3 conviction following a plea of nolo contendere. Any action that
4 the State Department of Social Services is permitted to take
5 following the establishment of a conviction may be taken when
6 the time for appeal has elapsed, when the judgment of conviction
7 has been affirmed on appeal, or when an order granting probation
8 is made suspending the imposition of sentence, notwithstanding
9 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
10 Penal Code permitting the person to withdraw his or her plea of
11 guilty and to enter a plea of not guilty, or setting aside the verdict
12 of guilty, or dismissing the accusation, information, or indictment.
13 For purposes of this section or any other provision of this chapter,
14 the record of a conviction, or a copy thereof certified by the clerk
15 of the court or by a judge of the court in which the conviction
16 occurred, shall be conclusive evidence of the conviction. For
17 purposes of this section or any other provision of this chapter, the
18 arrest disposition report certified by the Department of Justice, or
19 documents admissible in a criminal action pursuant to Section
20 969b of the Penal Code, shall be prima facie evidence of the
21 conviction, notwithstanding any other provision of law prohibiting
22 the admission of these documents in a civil or administrative action.

23 (2) For purposes of this section or any other provision of this
24 chapter, the department shall consider criminal convictions from
25 another state or federal court as if the criminal offense was
26 committed in this state.

27 (g) (1) After review of the record, the director may grant an
28 exemption from disqualification for a license or special permit as
29 specified in paragraph (4) of subdivision (a), or for a license,
30 special permit, or certificate of approval as specified in paragraphs
31 (4), (7), and (8) of subdivision (d), or for employment, residence,
32 or presence in a community care facility as specified in paragraphs
33 (3), (4), and (5) of subdivision (c), if the director has substantial
34 and convincing evidence to support a reasonable belief that the
35 applicant and the person convicted of the crime, if other than the
36 applicant, are of good character as to justify issuance of the license
37 or special permit or granting an exemption for purposes of
38 subdivision (c). Except as otherwise provided in this subdivision,
39 an exemption may not be granted pursuant to this subdivision if
40 the conviction was for any of the following offenses:

1 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
2 subdivision (a) of Section 273a or, prior to January 1, 1994,
3 paragraph (1) of Section 273a, Section 273d, 288, or 289,
4 subdivision (c) of Section 290, or Section 368 of the Penal Code,
5 or was a conviction of another crime against an individual specified
6 in subdivision (c) of Section 667.5 of the Penal Code.

7 (ii) Notwithstanding clause (i), the director may grant an
8 exemption regarding the conviction for an offense described in
9 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
10 of the Penal Code, if the employee or prospective employee has
11 been rehabilitated as provided in Section 4852.03 of the Penal
12 Code, has maintained the conduct required in Section 4852.05 of
13 the Penal Code for at least 10 years, and has the recommendation
14 of the district attorney representing the employee's county of
15 residence, or if the employee or prospective employee has received
16 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
17 with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

18 (B) A felony offense specified in Section 729 of the Business
19 and Professions Code or Section 206 or 215, subdivision (a) of
20 Section 347, subdivision (b) of Section 417, or subdivision (a) of
21 Section 451 of the Penal Code.

22 (C) On or after October 1, 2008, under no circumstances shall
23 an exemption be granted pursuant to this subdivision to any foster
24 family applicant or certified family home applicant if that applicant,
25 or any other person specified in subdivision (b) in those homes,
26 has a felony conviction for either of the following offenses:

27 (i) A felony conviction for child abuse or neglect, spousal abuse,
28 crimes against a child, including child pornography, or for a crime
29 involving violence, including rape, sexual assault, or homicide,
30 but not including other physical assault and battery.

31 (ii) A felony conviction, within the last five years, for physical
32 assault, battery, or a drug-related offense.

33 (2) The department may not prohibit a person from being
34 employed or having contact with clients in a facility on the basis
35 of a denied criminal record exemption request or arrest information
36 unless the department complies with the requirements of Section
37 1558.

38 (h) (1) For purposes of compliance with this section, the
39 department may permit an individual to transfer a current criminal
40 record clearance, as defined in subdivision (a), from one facility

1 to another, as long as the criminal record clearance has been
2 processed through a state licensing district office, and is being
3 transferred to another facility licensed by a state licensing district
4 office. The request shall be in writing to the State Department of
5 Social Services, and shall include a copy of the person's driver's
6 license or valid identification card issued by the Department of
7 Motor Vehicles, or a valid photo identification issued by another
8 state or the United States government if the person is not a
9 California resident. Upon request of the licensee, who shall enclose
10 a self-addressed envelope for this purpose, the State Department
11 of Social Services shall verify whether the individual has a
12 clearance that can be transferred.

13 (2) The State Department of Social Services shall hold criminal
14 record clearances in its active files for a minimum of two years
15 after an employee is no longer employed at a licensed facility in
16 order for the criminal record clearance to be transferred.

17 (3) The following shall apply to a criminal record clearance or
18 exemption from the department or a county office with
19 department-delegated licensing authority:

20 (A) A county office with department-delegated licensing
21 authority may accept a clearance or exemption from the
22 department.

23 (B) The department may accept a clearance or exemption from
24 any county office with department-delegated licensing authority.

25 (C) A county office with department-delegated licensing
26 authority may accept a clearance or exemption from any other
27 county office with department-delegated licensing authority.

28 (4) With respect to notifications issued by the Department of
29 Justice pursuant to Section 11105.2 of the Penal Code concerning
30 an individual whose criminal record clearance was originally
31 processed by the department or a county office with
32 department-delegated licensing authority, all of the following shall
33 apply:

34 (A) The Department of Justice shall process a request from the
35 department or a county office with department-delegated licensing
36 authority to receive the notice only if all of the following conditions
37 are met:

38 (i) The request shall be submitted to the Department of Justice
39 by the agency to be substituted to receive the notification.

1 (ii) The request shall be for the same applicant type as the type
2 for which the original clearance was obtained.

3 (iii) The request shall contain all prescribed data elements and
4 format protocols pursuant to a written agreement between the
5 department and the Department of Justice.

6 (B) (i) On or before January 7, 2005, the department shall notify
7 the Department of Justice of all county offices that have
8 department-delegated licensing authority.

9 (ii) The department shall notify the Department of Justice within
10 15 calendar days of the date on which a new county office receives
11 department-delegated licensing authority or a county's delegated
12 licensing authority is rescinded.

13 (C) The Department of Justice shall charge the department, a
14 county office with department-delegated licensing authority, or a
15 county child welfare agency with criminal record clearance and
16 exemption authority, a fee for each time a request to substitute the
17 recipient agency is received for purposes of this paragraph. This
18 fee shall not exceed the cost of providing the service.

19 (5) (A) A county child welfare agency with authority to secure
20 clearances pursuant to Section 16504.5 of the Welfare and
21 Institutions Code and to grant exemptions pursuant to Section
22 361.4 of the Welfare and Institutions Code may accept a clearance
23 or exemption from another county with criminal record and
24 exemption authority pursuant to these sections.

25 (B) With respect to notifications issued by the Department of
26 Justice pursuant to Section 11105.2 of the Penal Code concerning
27 an individual whose criminal record clearance was originally
28 processed by a county child welfare agency with criminal record
29 clearance and exemption authority, the Department of Justice shall
30 process a request from a county child welfare agency with criminal
31 record and exemption authority to receive the notice only if all of
32 the following conditions are met:

33 (i) The request shall be submitted to the Department of Justice
34 by the agency to be substituted to receive the notification.

35 (ii) The request shall be for the same applicant type as the type
36 for which the original clearance was obtained.

37 (iii) The request shall contain all prescribed data elements and
38 format protocols pursuant to a written agreement between the State
39 Department of Social Services and the Department of Justice.

1 (i) The full criminal record obtained for purposes of this section
2 may be used by the department or by a licensed adoption agency
3 as a clearance required for adoption purposes.

4 (j) If a licensee or facility is required by law to deny employment
5 or to terminate employment of any employee based on written
6 notification from the state department that the employee has a prior
7 criminal conviction or is determined unsuitable for employment
8 under Section 1558, the licensee or facility shall not incur civil
9 liability or unemployment insurance liability as a result of that
10 denial or termination.

11 (k) The State Department of Social Services may charge a fee
12 for the costs of processing electronic fingerprint images and related
13 information.

14 (l) Amendments to this section made in the 1999 portion of the
15 1999–2000 Regular Session shall be implemented commencing
16 60 days after the effective date of the act amending this section in
17 the 1999 portion of the 1999–2000 Regular Session, except that
18 those provisions for the submission of fingerprints for searching
19 the records of the Federal Bureau of Investigation shall be
20 implemented 90 days after the effective date of that act.

21 SEC. 2. Section 1522.1 of the Health and Safety Code is
22 amended to read:

23 1522.1. (a) Prior to granting a license to, or otherwise
24 approving, any individual to care for or reside with children, the
25 department shall check the Child Abuse Central Index pursuant
26 to paragraph (4) of subdivision (b) of Section 11170 of the Penal
27 Code. The Department of Justice shall maintain and continually
28 update an index of reports of child abuse by providers and shall
29 inform the department of subsequent reports received from the
30 Child Abuse Central Index pursuant to Section 11170 of the Penal
31 Code and the criminal history. The department shall investigate
32 any reports received from the Child Abuse Central Index. The
33 investigation shall include, but not be limited to, the review of the
34 investigation report and file prepared by the child protective agency
35 which investigated the child abuse report. The department shall
36 not deny a license based upon a report from the Child Abuse
37 Central Index unless child abuse is substantiated.

38 (b) For any application received on or after January 1, 2008, if
39 any prospective licensed or certified foster parent, or adoptive
40 parent, or any person over the age of 18 residing in their household,

1 has lived in another state in the preceding five years, the licensing
2 agency or licensed adoption agency shall check that state's child
3 abuse and neglect registry, in addition to checking the Child Abuse
4 Central Index as provided for in subdivision (a). The department,
5 in consultation with the County Welfare Directors Association,
6 shall develop and promulgate the process and criteria to be used
7 to review and consider other states' findings of child abuse or
8 neglect.

9 (c) If any person in the household is 18 years of age or older
10 and has lived in another state in the preceding five years, the
11 department or its designated representative shall check the other
12 state's child abuse and neglect registry to the same extent required
13 for federal funding, in addition to checking the Child Abuse Central
14 Index as provided for in subdivision (a), prior to granting a license
15 to, or otherwise approving, any foster family home, certified family
16 home, or person for whom an adoption home study is conducted
17 or who has filed to adopt.

18 SEC. 3. Section 11167.5 of the Penal Code is amended to read:

19 11167.5. (a) The reports required by Sections 11166 and
20 11166.2, or authorized by Section 11166.05, and child abuse or
21 neglect investigative reports that result in a summary report being
22 filed with the Department of Justice pursuant to subdivision (a) of
23 Section 11169 shall be confidential and may be disclosed only as
24 provided in subdivision (b). Any violation of the confidentiality
25 provided by this article is a misdemeanor punishable by
26 imprisonment in a county jail not to exceed six months, by a fine
27 of five hundred dollars (\$500), or by both that imprisonment and
28 fine.

29 (b) Reports of suspected child abuse or neglect and information
30 contained therein may be disclosed only to the following:

31 (1) Persons or agencies to whom disclosure of the identity of
32 the reporting party is permitted under Section 11167.

33 (2) Persons or agencies to whom disclosure of information is
34 permitted under subdivision (b) of Section 11170 or subdivision
35 (a) of Section 11170.5.

36 (3) Persons or agencies with whom investigations of child abuse
37 or neglect are coordinated under the regulations promulgated under
38 Section 11174.

39 (4) Multidisciplinary personnel teams as defined in subdivision
40 (d) of Section 18951 of the Welfare and Institutions Code.

- 1 (5) Persons or agencies responsible for the licensing of facilities
 2 which care for children, as specified in Section 11165.7.
- 3 (6) The State Department of Social Services or any county
 4 licensing agency which has contracted with the state, as specified
 5 in paragraph (4) of subdivision (b) of Section 11170, when an
 6 individual has applied for a community care license or child day
 7 care license, or for employment in an out-of-home care facility,
 8 or when a complaint alleges child abuse or neglect by an operator
 9 or employee of an out-of-home care facility.
- 10 (7) Hospital scan teams. As used in this paragraph, “hospital
 11 scan team” means a team of three or more persons established by
 12 a hospital, or two or more hospitals in the same county, consisting
 13 of health care professionals and representatives of law enforcement
 14 and child protective services, the members of which are engaged
 15 in the identification of child abuse or neglect. The disclosure
 16 authorized by this section includes disclosure among all hospital
 17 scan teams.
- 18 (8) Coroners and medical examiners when conducting a post
 19 mortem examination of a child.
- 20 (9) The Board of Parole Hearings, who may subpoena an
 21 employee of a county welfare department who can provide relevant
 22 evidence and reports that both (A) are not unfounded, pursuant to
 23 Section 11165.12, and (B) concern only the current incidents upon
 24 which parole revocation proceedings are pending against a parolee
 25 charged with child abuse or neglect. The reports and information
 26 shall be confidential pursuant to subdivision (d) of Section 11167.
- 27 (10) Personnel from an agency responsible for making a
 28 placement of a child pursuant to Section 361.3 of, and Article 7
 29 (commencing with Section 305) of Chapter 2 of Part 1 of Division
 30 2 of, the Welfare and Institutions Code.
- 31 (11) Persons who have been identified by the Department of
 32 Justice as listed in the Child Abuse Central Index pursuant to
 33 paragraph (6) of subdivision (b) of Section 11170 or subdivision
 34 (c) of Section 11170, or persons who have verified with the
 35 Department of Justice that they are listed in the Child Abuse
 36 Central Index as provided in subdivision (e) of Section 11170.
 37 Disclosure under this paragraph is required notwithstanding the
 38 California Public Records Act, Chapter 3.5 (commencing with
 39 Section 6250) of Division 7 of Title 1 of the Government Code.
 40 Nothing in this paragraph shall preclude a submitting agency prior

1 to disclosure from redacting any information necessary to maintain
2 confidentiality as required by law.

3 (12) Out-of-state law enforcement agencies conducting an
4 investigation of child abuse or neglect only when an agency makes
5 the request for reports of suspected child abuse or neglect in writing
6 and on official letterhead, or as designated by the Department of
7 Justice, identifying the suspected abuser or victim by name and
8 date of birth or approximate age. The request shall be signed by
9 the department supervisor of the requesting law enforcement
10 agency. The written request shall cite the out-of-state statute or
11 interstate compact provision that requires that the information
12 contained within these reports is to be disclosed only to law
13 enforcement, prosecutorial entities, or multidisciplinary
14 investigative teams, and shall cite the criminal penalties for
15 unlawful disclosure provided by the requesting state or the
16 applicable interstate compact provision. In the absence of both (A)
17 a specific out-of-state statute or interstate compact provision that
18 requires that the information contained within these reports be
19 disclosed only to law enforcement, prosecutorial entities, or
20 multidisciplinary investigative teams, and (B) criminal penalties
21 equivalent to the penalties in California for unlawful disclosure,
22 access shall be denied.

23 (13) Out-of-state agencies responsible for approving prospective
24 foster or adoptive parents for placement of a child only when the
25 agency makes the request for information in writing on official
26 letterhead, transmitted by mail, fax, or electronic transmission, or
27 as designated by the Department of Justice. The request shall
28 identify the prospective foster or adoptive parent and any other
29 adult living in the home, by name and date of birth or approximate
30 age. The request shall be signed by the department supervisor of
31 the requesting agency. The request shall cite the out-of-state statute
32 or interstate compact provision that requires that the information
33 contained in the reports shall be disclosed and used for no purpose
34 other than conducting background checks in foster or adoptive
35 cases. The request shall also cite the criminal penalties for unlawful
36 disclosure provided by the requesting state or the applicable
37 interstate compact provision. In the absence of an out-of-state
38 statute or interstate compact provision that requires that the
39 information contained within the reports be disclosed and used for
40 no purpose other than conducting background checks in foster or

1 adoptive cases, and criminal penalties equivalent to the penalties
2 in California for unlawful disclosure, access shall be denied.

3 (14) Each chairperson of a county child death review team, or
4 his or her designee, to whom disclosure of information is permitted
5 under this article, relating to the death of one or more children and
6 any prior child abuse or neglect investigation reports maintained
7 involving the same victim, siblings, or suspects. Local child death
8 review teams may share any relevant information regarding case
9 reviews involving child death with other child death review teams.

10 (c) Authorized persons within county health departments shall
11 be permitted to receive copies of any reports made by health
12 practitioners, as defined in paragraphs (21) to (28), inclusive, of
13 subdivision (a) of Section 11165.7, and pursuant to Section
14 11165.13, and copies of assessments completed pursuant to
15 Sections 123600 and 123605 of the Health and Safety Code, to
16 the extent permitted by federal law. Any information received
17 pursuant to this subdivision is protected by subdivision (e).

18 (d) Nothing in this section requires the Department of Justice
19 to disclose information contained in records maintained under
20 Section 11170 or under the regulations promulgated pursuant to
21 Section 11174, except as otherwise provided in this article.

22 (e) This section shall not be interpreted to allow disclosure of
23 any reports or records relevant to the reports of child abuse or
24 neglect if the disclosure would be prohibited by any other
25 provisions of state or federal law applicable to the reports or records
26 relevant to the reports of child abuse or neglect.

27 SEC. 4. Section 11170 of the Penal Code is amended to read:

28 11170. (a) (1) The Department of Justice shall maintain an
29 index of all reports of child abuse and severe neglect submitted
30 pursuant to Section 11169. The index shall be continually updated
31 by the department and shall not contain any reports that are
32 determined to be unfounded. The department may adopt rules
33 governing recordkeeping and reporting pursuant to this article.

34 (2) The department shall act only as a repository of reports of
35 suspected child abuse and severe neglect to be maintained in the
36 Child Abuse Central Index pursuant to paragraph (1). The
37 submitting agencies are responsible for the accuracy, completeness,
38 and retention of the reports described in this section. The
39 department shall be responsible for ensuring that the Child Abuse

1 Central Index accurately reflects the report it receives from the
2 submitting agency.

3 (3) Information from an inconclusive or unsubstantiated report
4 filed pursuant to subdivision (a) of Section 11169 shall be deleted
5 from the Child Abuse Central Index after 10 years if no subsequent
6 report concerning the same suspected child abuser is received
7 within that time period. If a subsequent report is received within
8 that 10-year period, information from any prior report, as well as
9 any subsequently filed report, shall be maintained on the Child
10 Abuse Central Index for a period of 10 years from the time the
11 most recent report is received by the department.

12 (b) (1) The Department of Justice shall immediately notify an
13 agency that submits a report pursuant to Section 11169, or a
14 prosecutor who requests notification, of any information maintained
15 pursuant to subdivision (a) that is relevant to the known or
16 suspected instance of child abuse or severe neglect reported by the
17 agency. The agency shall make that information available to the
18 reporting medical practitioner, child custodian, guardian ad litem
19 appointed under Section 326, or counsel appointed under Section
20 317 or 318 of the Welfare and Institutions Code, or the appropriate
21 licensing agency, if he or she is treating or investigating a case of
22 known or suspected child abuse or severe neglect.

23 (2) When a report is made pursuant to subdivision (a) of Section
24 11166, or Section 11166.05, the investigating agency, upon
25 completion of the investigation or after there has been a final
26 disposition in the matter, shall inform the person required or
27 authorized to report, of the results of the investigation and of any
28 action the agency is taking with regard to the child or family.

29 (3) The Department of Justice shall make available to a law
30 enforcement agency, county welfare department, or county
31 probation department that is conducting a child abuse investigation,
32 relevant information contained in the index.

33 (4) The department shall make available to the State Department
34 of Social Services, or to any county licensing agency that has
35 contracted with the state for the performance of licensing duties,
36 or to a tribal court or tribal child welfare agency of a tribe or
37 consortium of tribes that has entered into an agreement with the
38 state pursuant to Section 10553.1 of the Welfare and Institutions
39 Code, information regarding a known or suspected child abuser
40 maintained pursuant to this section and subdivision (a) of Section

1 11169 concerning any person who is an applicant for licensure or
2 any adult who resides or is employed in the home of an applicant
3 for licensure or who is an applicant for employment in a position
4 having supervisory or disciplinary power over a child or children,
5 or who will provide 24-hour care for a child or children in a
6 residential home or facility, pursuant to Section 1522.1 or 1596.877
7 of the Health and Safety Code, or Section 8714, 8802, 8912, or
8 9000 of the Family Code.

9 (5) The Department of Justice shall make available to a Court
10 Appointed Special Advocate program that is conducting a
11 background investigation of an applicant seeking employment
12 with the program or a volunteer position as a Court Appointed
13 Special Advocate, as defined in Section 101 of the Welfare and
14 Institutions Code, information contained in the index regarding
15 known or suspected child abuse by the applicant.

16 (6) For purposes of child death review, the Department of Justice
17 shall make available to the chairperson, or the chairperson's
18 designee, for each county child death review team, or the State
19 Child Death Review Council, information maintained in the Child
20 Abuse Central Index pursuant to subdivision (a) of Section 11170
21 relating to the death of one or more children and any prior child
22 abuse or neglect investigation reports maintained involving the
23 same victims, siblings, or suspects. Local child death review teams
24 may share any relevant information regarding case reviews
25 involving child death with other child death review teams.

26 (7) The department shall make available to investigative
27 agencies or probation officers, or court investigators acting
28 pursuant to Section 1513 of the Probate Code, responsible for
29 placing children or assessing the possible placement of children
30 pursuant to Article 6 (commencing with Section 300), Article 7
31 (commencing with Section 305), Article 10 (commencing with
32 Section 360), or Article 14 (commencing with Section 601) of
33 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
34 Code, Article 2 (commencing with Section 1510) or Article 3
35 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
36 4 of the Probate Code, information regarding a known or suspected
37 child abuser contained in the index concerning any adult residing
38 in the home where the child may be placed, when this information
39 is requested for purposes of ensuring that the placement is in the
40 best interests of the child. Upon receipt of relevant information

1 concerning child abuse or neglect investigation reports contained
2 in the index from the Department of Justice pursuant to this
3 subdivision, the agency or court investigator shall notify, in writing,
4 the person listed in the Child Abuse Central Index that he or she
5 is in the index. The notification shall include the name of the
6 reporting agency and the date of the report.

7 (8) The Department of Justice shall make available to a
8 government agency conducting a background investigation
9 pursuant to Section 1031 of the Government Code of an applicant
10 seeking employment as a peace officer, as defined in Section 830,
11 information regarding a known or suspected child abuser
12 maintained pursuant to this section concerning the applicant.

13 (9) (A) Persons or agencies, as specified in subdivision (b), if
14 investigating a case of known or suspected child abuse or neglect,
15 or the State Department of Social Services or any county licensing
16 agency pursuant to paragraph (4), or a Court Appointed Special
17 Advocate program conducting a background investigation for
18 employment or volunteer candidates pursuant to paragraph (5), or
19 an investigative agency, probation officer, or court investigator
20 responsible for placing children or assessing the possible placement
21 of children pursuant to paragraph (7), or a government agency
22 conducting a background investigation of an applicant seeking
23 employment as a peace officer pursuant to paragraph (8), to whom
24 disclosure of any information maintained pursuant to subdivision
25 (a) is authorized, are responsible for obtaining the original
26 investigative report from the reporting agency, and for drawing
27 independent conclusions regarding the quality of the evidence
28 disclosed, and its sufficiency for making decisions regarding
29 investigation, prosecution, licensing, placement of a child,
30 employment or volunteer positions with a CASA program, or
31 employment as a peace officer.

32 (B) If Child Abuse Central Index information is requested by
33 an agency for the temporary placement of a child in an emergency
34 situation pursuant to Article 7 (commencing with Section 305) of
35 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
36 Code, the department is exempt from the requirements of Section
37 1798.18 of the Civil Code if compliance would cause a delay in
38 providing an expedited response to the agency's inquiry and if
39 further delay in placement may be detrimental to the child.

1 (10) (A) Whenever information contained in the Department
2 of Justice files is furnished as the result of an application for
3 employment or licensing pursuant to paragraph (4), (5), or (8), the
4 Department of Justice may charge the person or entity making the
5 request a fee. The fee shall not exceed the reasonable costs to the
6 department of providing the information. The only increase shall
7 be at a rate not to exceed the legislatively approved cost-of-living
8 adjustment for the department. In no case shall the fee exceed
9 fifteen dollars (\$15).

10 (B) All moneys received by the department pursuant to this
11 section to process trustline applications for purposes of Chapter
12 3.35 (commencing with Section 1596.60) of Division 2 of the
13 Health and Safety Code shall be deposited in a special account in
14 the General Fund that is hereby established and named the
15 Department of Justice Child Abuse Fund. Moneys in the fund shall
16 be available, upon appropriation by the Legislature, for expenditure
17 by the department to offset the costs incurred to process trustline
18 automated child abuse or neglect system checks pursuant to this
19 section.

20 (C) All moneys, other than that described in subparagraph (B),
21 received by the department pursuant to this paragraph shall be
22 deposited in a special account in the General Fund which is hereby
23 created and named the Department of Justice Sexual Habitual
24 Offender Fund. The funds shall be available, upon appropriation
25 by the Legislature, for expenditure by the department to offset the
26 costs incurred pursuant to Chapter 9.5 (commencing with Section
27 13885) and Chapter 10 (commencing with Section 13890) of Title
28 6 of Part 4, and the DNA and Forensic Identification Data Base
29 and Data Bank Act of 1998 (Chapter 6 (commencing with Section
30 295) of Title 9 of Part 1), and for maintenance and improvements
31 to the statewide Sexual Habitual Offender Program and the
32 California DNA offender identification file (CAL-DNA) authorized
33 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
34 Part 4 and the DNA and Forensic Identification Data Base and
35 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
36 of Title 9 of Part 1).

37 (c) The Department of Justice shall make available to any agency
38 responsible for placing children pursuant to Article 7 (commencing
39 with Section 305) of Chapter 2 of Part 1 of Division 2 of the
40 Welfare and Institutions Code, upon request, relevant information

1 concerning child abuse or neglect reports contained in the index,
2 when making a placement with a responsible relative pursuant to
3 Sections 281.5, 305, and 361.3 of the Welfare and Institutions
4 Code. Upon receipt of relevant information concerning child abuse
5 or neglect reports contained in the index from the Department of
6 Justice pursuant to this subdivision, the agency shall also notify
7 in writing the person listed in the Child Abuse Central Index that
8 he or she is in the index. The notification shall include the location
9 of the original investigative report and the submitting agency. The
10 notification shall be submitted to the person listed at the same time
11 that all other parties are notified of the information, and no later
12 than the actual judicial proceeding that determines placement.

13 If Child Abuse Central Index information is requested by an
14 agency for the placement of a child with a responsible relative in
15 an emergency situation pursuant to Article 7 (commencing with
16 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
17 and Institutions Code, the department is exempt from the
18 requirements of Section 1798.18 of the Civil Code if compliance
19 would cause a delay in providing an expedited response to the
20 child protective agency's inquiry and if further delay in placement
21 may be detrimental to the child.

22 (d) The department shall make available any information
23 maintained pursuant to subdivision (a) to out-of-state law
24 enforcement agencies conducting investigations of known or
25 suspected child abuse or neglect only when an agency makes the
26 request for information in writing and on official letterhead, or as
27 designated by the department, identifying the suspected abuser or
28 victim by name and date of birth or approximate age. The request
29 shall be signed by the department supervisor of the requesting law
30 enforcement agency. The written requests shall cite the out-of-state
31 statute or interstate compact provision that requires that the
32 information contained within these reports shall be disclosed only
33 to law enforcement, prosecutorial entities, or multidisciplinary
34 investigative teams, and shall cite the criminal penalties for
35 unlawful disclosure of any confidential information provided by
36 the requesting state or the applicable interstate compact provision.
37 In the absence of a specified out-of-state statute or interstate
38 compact provision that requires that the information contained
39 within these reports shall be disclosed only to law enforcement,
40 prosecutorial entities, or multidisciplinary investigative teams, and

1 criminal penalties equivalent to the penalties in California for
2 unlawful disclosure, access shall be denied.

3 (e) (1) The department shall make available to an out-of-state
4 agency, for purposes of approving a prospective foster or adoptive
5 parent for placement of a child, information regarding a known or
6 suspected child abuser maintained pursuant to subdivision (a)
7 concerning the prospective foster or adoptive parent, and any other
8 adult living in the home of the prospective foster or adoptive parent.
9 The department shall make that information available only when
10 the out-of-state agency makes the request for information in writing
11 on official letterhead, transmitted either by mail, fax, or electronic
12 transmission or as designated by the department. The request shall
13 identify the prospective foster or adoptive parent, and any other
14 adult living in the home, by name and date of birth or approximate
15 age. The request shall cite the out-of-state statute or interstate
16 compact provision that requires that the information received in
17 response to the inquiry shall be disclosed and used for no purpose
18 other than conducting background checks in foster or adoptive
19 cases. The request shall also cite the criminal penalties for unlawful
20 disclosure of any information provided by the requesting state or
21 the applicable interstate compact provision. In the absence of an
22 out-of-state statute or interstate compact provision that requires
23 that the information shall be used for no purpose other than
24 conducting background checks in foster or adoptive cases and
25 criminal penalties equivalent to the penalties in California for
26 unlawful disclosure, access shall be denied.

27 (2) With respect to any information provided by the department
28 in response to the out-of-state agency's request, the out-of-state
29 agency is responsible for obtaining the original investigative report
30 from the reporting agency, and for drawing independent
31 conclusions regarding the quality of the evidence disclosed and
32 its sufficiency for making decisions regarding the approval of
33 prospective foster or adoptive parents.

34 (3) (A) Whenever information contained in the index is
35 furnished pursuant to this subdivision, the department shall charge
36 the out-of-state agency making the request a fee. The fee shall not
37 exceed the reasonable costs to the department of providing the
38 information. The only increase shall be at a rate not to exceed the
39 legislatively approved cost-of-living adjustment for the department.
40 In no case shall the fee exceed fifteen dollars (\$15).

1 (B) All moneys received by the department pursuant to this
2 subdivision shall be deposited in the Department of Justice Child
3 Abuse Fund, established under subparagraph (B) of paragraph (9)
4 of subdivision (b). Moneys in the fund shall be available, upon
5 appropriation by the Legislature, for expenditure by the department
6 to offset the costs incurred to process requests for information
7 pursuant to this subdivision.

8 (f) (1) Any person may determine if he or she is listed in the
9 Child Abuse Central Index by making a request in writing to the
10 Department of Justice. The request shall be notarized and include
11 the person's name, address, date of birth, and either a social
12 security number or a California identification number. Upon receipt
13 of a notarized request, the Department of Justice shall make
14 available to the requesting person information identifying the date
15 of the report and the submitting agency. The requesting person is
16 responsible for obtaining the investigative report from the
17 submitting agency pursuant to paragraph (11) of subdivision (b)
18 of Section 11167.5.

19 (2) No person or agency shall require or request another person
20 to furnish a copy of a record concerning himself or herself, or
21 notification that a record concerning himself or herself exists or
22 does not exist, pursuant to paragraph (1) of this subdivision.

23 (g) If a person is listed in the Child Abuse Central Index only
24 as a victim of child abuse or neglect, and that person is 18 years
25 of age or older, that person may have his or her name removed
26 from the index by making a written request to the Department of
27 Justice. The request shall be notarized and include the person's
28 name, address, social security number, and date of birth.

29 SEC. 5. Section 309 of the Welfare and Institutions Code is
30 amended to read:

31 309. (a) Upon delivery to the social worker of a child who has
32 been taken into temporary custody under this article, the social
33 worker shall immediately investigate the circumstances of the child
34 and the facts surrounding the child's being taken into custody and
35 attempt to maintain the child with the child's family through the
36 provision of services. The social worker shall immediately release
37 the child to the custody of the child's parent, guardian, or
38 responsible relative unless one or more of the following conditions
39 exist:

- 1 (1) The child has no parent, guardian, or responsible relative;
2 or the child’s parent, guardian, or responsible relative is not willing
3 to provide care for the child.
- 4 (2) Continued detention of the child is a matter of immediate
5 and urgent necessity for the protection of the child and there are
6 no reasonable means by which the child can be protected in his or
7 her home or the home of a responsible relative.
- 8 (3) There is substantial evidence that a parent, guardian, or
9 custodian of the child is likely to flee the jurisdiction of the court.
- 10 (4) The child has left a placement in which he or she was placed
11 by the juvenile court.
- 12 (5) The parent or other person having lawful custody of the
13 child voluntarily surrendered physical custody of the child pursuant
14 to Section 1255.7 of the Health and Safety Code and did not
15 reclaim the child within the 14-day period specified in subdivision
16 (e) of that section.
- 17 (b) In any case in which there is reasonable cause for believing
18 that a child who is under the care of a physician or surgeon or a
19 hospital, clinic, or other medical facility and cannot be immediately
20 moved and is a person described in Section 300, the child shall be
21 deemed to have been taken into temporary custody and delivered
22 to the social worker for the purposes of this chapter while the child
23 is at the office of the physician or surgeon or the medical facility.
- 24 (c) If the child is not released to his or her parent or guardian,
25 the child shall be deemed detained for purposes of this chapter.
- 26 (d) (1) If an able and willing relative, as defined in Section 319,
27 or an able and willing nonrelative extended family member, as
28 defined in Section 362.7, is available and requests temporary
29 placement of the child pending the detention hearing, the county
30 welfare department shall initiate an assessment of the relative’s or
31 nonrelative extended family member’s suitability, which shall
32 include an in-home inspection to assess the safety of the home and
33 the ability of the relative or nonrelative extended family member
34 to care for the child’s needs, and a consideration of the results of
35 a criminal records check conducted pursuant to subdivision (a) of
36 Section 16504.5 and a check of allegations of prior child abuse or
37 neglect concerning the relative or nonrelative extended family
38 member and other adults in the home. Upon completion of this
39 assessment, the child may be placed in the assessed home. For
40 purposes of this paragraph, and except for the criminal records

1 check conducted pursuant to subdivision (a) of Section 16504.5,
2 the standards used to determine suitability shall be the same
3 standards set forth in the regulations for the licensing of foster
4 family homes.

5 (2) Immediately following the placement of a child in the home
6 of a relative or a nonrelative extended family member, the county
7 welfare department shall evaluate and approve or deny the home
8 for purposes of AFDC-FC eligibility pursuant to Section 11402.
9 The standards used to evaluate and grant or deny approval of the
10 home of the relative and of the home of a nonrelative extended
11 family member, as described in Section 362.7, shall be the same
12 standards set forth in regulations for the licensing of foster family
13 homes which prescribe standards of safety and sanitation for the
14 physical plant and standards for basic personal care, supervision,
15 and services provided by the caregiver.

16 (3) If a relative or nonrelative extended family member meets
17 all other conditions for approval, except for the receipt of the
18 Federal Bureau of Investigation's criminal history information for
19 the relative or nonrelative extended family member, and other
20 adults in the home, as indicated, the county welfare department
21 may approve the home and document that approval, if the relative
22 or nonrelative extended family member, and each adult in the
23 home, has signed and submitted a statement that he or she has
24 never been convicted of a crime in the United States, other than a
25 traffic infraction as defined in paragraph (1) of subdivision (a) of
26 Section 42001 of the Vehicle Code. If, after the approval has been
27 granted, the department determines that the relative or nonrelative
28 extended family member or other adult in the home has a criminal
29 record, the approval may be terminated.

30 (4) If the criminal records check indicates that the person has
31 been convicted of a crime for which the Director of Social Services
32 cannot grant an exemption under Section 1522 of the Health and
33 Safety Code, the child shall not be placed in the home. If the
34 criminal records check indicates that the person has been convicted
35 of a crime for which the Director of Social Services may grant an
36 exemption under Section 1522 of the Health and Safety Code, the
37 child shall not be placed in the home unless a criminal records
38 exemption has been granted by the county based on substantial
39 and convincing evidence to support a reasonable belief that the

1 person with the criminal conviction is of such good character as
2 to justify the placement and not present a risk of harm to the child.

3 SEC. 6. Section 361.4 of the Welfare and Institutions Code is
4 amended to read:

5 361.4. (a) Prior to placing a child in the home of a relative, or
6 the home of any prospective guardian or other person who is not
7 a licensed or certified foster parent, the county social worker shall
8 visit the home to ascertain the appropriateness of the placement.

9 (b) Whenever a child may be placed in the home of a relative,
10 or the home of any prospective guardian or other person who is
11 not a licensed or certified foster parent, the court or county social
12 worker placing the child shall cause a state level criminal records
13 check to be conducted by an appropriate governmental agency
14 through the California Law Enforcement Telecommunications
15 System (CLETS) pursuant to Section 16504.5. The criminal records
16 check shall be conducted with regard to all persons over the age
17 of 18 years living in the home, and on any other person over the
18 age of 18 years, other than professionals providing professional
19 services to the child, known to the placing entity who may have
20 significant contact with the child, including any person who has
21 a familial or intimate relationship with any person living in the
22 home. A criminal records check may be conducted pursuant to
23 this section on any person over the age of 14 years living in the
24 home who the county social worker believes may have a criminal
25 record. Within 10 calendar days following the criminal records
26 check conducted through the California Law Enforcement
27 Telecommunications System, the social worker shall ensure that
28 a fingerprint clearance check of the relative and any other person
29 whose criminal record was obtained pursuant to this subdivision
30 is initiated through the Department of Justice to ensure the accuracy
31 of the criminal records check conducted through the California
32 Law Enforcement Telecommunications System and shall review
33 the results of any criminal records check to assess the safety of the
34 home. The Department of Justice shall forward fingerprint requests
35 for federal level criminal history information to the Federal Bureau
36 of Investigation pursuant to this section.

37 (c) Whenever a child may be placed in the home of a relative,
38 or a prospective guardian or other person who is not a licensed or
39 certified foster parent, the county social worker shall cause a check
40 of the Child Abuse Central Index pursuant to subdivision (a) of

1 Section 11170 of the Penal Code to be requested from the
2 Department of Justice. The Child Abuse Central Index check shall
3 be conducted on all persons over the age of 18 years living in the
4 home. For any application received on or after January 1, 2008, if
5 any person in the household is 18 years of age or older and has
6 lived in another state in the preceding five years, the county social
7 worker shall check the other state's child abuse and neglect registry
8 to the extent required by federal law.

9 (d) (1) If the criminal records check indicates that the person
10 has no criminal record, the county social worker and court may
11 consider the home of the relative, prospective guardian, or other
12 person who is not a licensed or certified foster parent for placement
13 of a child.

14 (2) If the criminal records check indicates that the person has
15 been convicted of a crime that the Director of Social Services
16 cannot grant an exemption for under Section 1522 of the Health
17 and Safety Code, the child may not be placed in the home. If the
18 criminal records check indicates that the person has been convicted
19 of a crime that the Director of Social Services may grant an
20 exemption for under Section 1522 of the Health and Safety Code,
21 the child may not be placed in the home unless a criminal records
22 exemption has been granted by the county, based on substantial
23 and convincing evidence to support a reasonable belief that the
24 person with the criminal conviction is of such good character as
25 to justify the placement and not present a risk of harm to the child
26 pursuant to paragraph (3).

27 (3) (A) A county may issue a criminal records exemption only
28 if that county has been granted permission by the Director of Social
29 Services to issue criminal records exemptions. The county may
30 file a request with the Director of Social Services seeking
31 permission for the county to establish a procedure to evaluate and
32 grant appropriate individual criminal records exemptions for
33 persons described in subdivision (b). The director shall grant or
34 deny the county's request within 14 days of receipt. The county
35 shall evaluate individual criminal records in accordance with the
36 standards and limitations set forth in paragraph (1) of subdivision
37 (g) of Section 1522 of the Health and Safety Code, and in no event
38 shall the county place a child in the home of a person who is
39 ineligible for an exemption under that provision.

1 (B) The department shall monitor county implementation of the
2 authority to grant an exemption under this paragraph to ensure that
3 the county evaluates individual criminal records and allows or
4 disallows placements according to the standards set forth in
5 paragraph (1) of subdivision (g) of Section 1522 of the Health and
6 Safety Code.

7 (4) The department shall conduct an evaluation of the
8 implementation of paragraph (3) through random sampling of
9 county exemption decisions.

10 (5) The State Department of Social Services shall not evaluate
11 or grant criminal records exemption requests for persons described
12 in subdivision (b), unless the exemption request is made by an
13 Indian tribe pursuant to subdivision (f).

14 (6) If a county has not requested, or has not been granted,
15 permission by the State Department of Social Services to establish
16 a procedure to evaluate and grant criminal records exemptions,
17 the county may not place a child into the home of a person
18 described in subdivision (b) if any person residing in the home has
19 been convicted of a crime other than a minor traffic violation,
20 except as provided in subdivision (f).

21 (e) Nothing in this section shall preclude a county from
22 conducting a criminal background check that the county is
23 otherwise authorized to conduct using fingerprints.

24 (f) Upon request from an Indian tribe, the State Department of
25 Social Services shall evaluate an exemption request, if needed, to
26 allow placement into an Indian home that the tribe has designated
27 for placement under the Indian Child Welfare Act (25 U.S.C. Sec.
28 1901 et seq.) that would otherwise be barred under this section.
29 However, if the county with jurisdiction over the child that is the
30 subject of the tribe's request has established an approved procedure
31 pursuant to paragraph (3) of subdivision (d), the tribe may request
32 that the county evaluate the exemption request. Once a tribe has
33 elected to have the exemption request reviewed by either the State
34 Department of Social Services or the county, the exemption
35 decision may only be made by that entity. Nothing in this
36 subdivision limits the duty of a county social worker to evaluate
37 the home for placement or to gather information needed to evaluate
38 an exemption request.

1 (g) This section shall remain in effect only until January 1, 2010,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2010, deletes or extends that date.

4 SEC. 7. Section 16501.1 of the Welfare and Institutions Code
5 is amended to read:

6 16501.1. (a) (1) The Legislature finds and declares that the
7 foundation and central unifying tool in child welfare services is
8 the case plan.

9 (2) The Legislature further finds and declares that a case plan
10 ensures that the child receives protection and safe and proper care
11 and case management, and that services are provided to the child
12 and parents or other caretakers, as appropriate, in order to improve
13 conditions in the parent's home, to facilitate the safe return of the
14 child to a safe home or the permanent placement of the child, and
15 to address the needs of the child while in foster care.

16 (b) (1) A case plan shall be based upon the principles of this
17 section and shall document that a preplacement assessment of the
18 service needs of the child and family, and preplacement preventive
19 services, have been provided, and that reasonable efforts to prevent
20 out-of-home placement have been made.

21 (2) In determining the reasonable services to be offered or
22 provided, the child's health and safety shall be the paramount
23 concerns.

24 (3) Reasonable services shall be offered or provided to make it
25 possible for a child to return to a safe home environment, unless,
26 pursuant to subdivisions (b) and (e) of Section 361.5, the court
27 determines that reunification services shall not be provided.

28 (4) If reasonable services are not ordered, or are terminated,
29 reasonable efforts shall be made to place the child in a timely
30 manner in accordance with the permanent plan and to complete
31 all steps necessary to finalize the permanent placement of the child.

32 (c) (1) If out-of-home placement is used to attain case plan
33 goals, the decision regarding choice of placement shall be based
34 upon selection of a safe setting that is the least restrictive or most
35 familylike and the most appropriate setting that is available and
36 in close proximity to the parent's home, proximity to the child's
37 school, consistent with the selection of the environment best suited
38 to meet the child's special needs and best interests, or both. The
39 selection shall consider, in order of priority, placement with

1 relatives, tribal members, and foster family, group care, and
2 residential treatment pursuant to Section 7950 of the Family Code.

3 (2) In addition to the requirements of paragraph (1), and taking
4 into account other statutory considerations regarding placement,
5 the selection of the most appropriate home that will meet the child's
6 special needs and best interests shall also promote educational
7 stability by taking into consideration proximity to the child's school
8 attendance area.

9 (d) A written case plan shall be completed within a maximum
10 of 60 days of the initial removal of the child or of the in-person
11 response required under subdivision (f) of Section 16501 if the
12 child has not been removed from his or her home, or by the date
13 of the dispositional hearing pursuant to Section 358, whichever
14 occurs first. The case plan shall be updated, as the service needs
15 of the child and family dictate. At a minimum, the case plan shall
16 be updated in conjunction with each status review hearing
17 conducted pursuant to Section 366.21, and the hearing conducted
18 pursuant to Section 366.26, but no less frequently than once every
19 six months. Each updated case plan shall include a description of
20 the services that have been provided to the child under the plan
21 and an evaluation of the appropriateness and effectiveness of those
22 services.

23 (1) It is the intent of the Legislature that extending the maximum
24 time available for preparing a written case plan from 30 to 60 days
25 will afford caseworkers time to actively engage families, and to
26 solicit and integrate into the case plan the input of the child and
27 the child's family, as well as the input of relatives and other
28 interested parties.

29 (2) The extension of the maximum time available for preparing
30 a written case plan from the 30 to 60 days shall be effective 90
31 days after the date that the department gives counties written notice
32 that necessary changes have been made to the Child Welfare
33 Services Case Management System to account for the 60-day
34 timeframe for preparing a written case plan.

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

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

1 (1) The case plan shall be based upon an assessment of the
2 circumstances that required child welfare services intervention.
3 The child shall be involved in developing the case plan as age and
4 developmentally appropriate.

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

7 (3) The case plan shall identify the original allegations of abuse
8 or neglect, as defined in Article 2.5 (commencing with Section
9 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
10 conditions cited as the basis for declaring the child a dependent of
11 the court pursuant to Section 300, or all of these, and the other
12 precipitating incidents that led to child welfare services
13 intervention.

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

31 (5) (A) When out-of-home services are used, the frequency of
32 contact between the natural parents or legal guardians and the child
33 shall be specified in the case plan. The frequency of those contacts
34 shall reflect overall case goals, and consider other principles
35 outlined in this section.

36 (B) Information regarding any court-ordered visitation between
37 the child and the natural parents or legal guardians, and the terms
38 and conditions needed to facilitate the visits while protecting the
39 safety of the child, shall be provided to the child's out-of-home
40 caregiver as soon as possible after the court order is made.

1 (6) When out-of-home placement is made, the case plan shall
2 include provisions for the development and maintenance of sibling
3 relationships as specified in subdivisions (b), (c), and (d) of Section
4 16002. If appropriate, when siblings who are dependents of the
5 juvenile court are not placed together, the social worker for each
6 child, if different, shall communicate with each of the other social
7 workers and ensure that the child's siblings are informed of
8 significant life events that occur within their extended family.
9 Unless it has been determined that it is inappropriate in a particular
10 case to keep siblings informed of significant life events that occur
11 within the extended family, the social worker shall determine the
12 appropriate means and setting for disclosure of this information
13 to the child commensurate with the child's age and emotional
14 well-being. These significant life events shall include, but shall
15 not be limited to, the following:

16 (A) The death of an immediate relative.

17 (B) The birth of a sibling.

18 (C) Significant changes regarding a dependent child, unless the
19 child objects to the sharing of the information with his or her
20 siblings, including changes in placement, major medical or mental
21 health diagnoses, treatments, or hospitalizations, arrests, and
22 changes in the permanent plan.

23 (7) If out-of-home placement is made in a foster family home,
24 group home or other child care institution that is either a substantial
25 distance from the home of the child's parent or out of state, the
26 case plan shall specify the reasons why that placement is in the
27 best interest of the child. When an out-of-state group home
28 placement is recommended or made, the case plan shall, in
29 addition, specify compliance with Section 7911.1 of the Family
30 Code.

31 (8) (A) If out-of-home services are used, or if parental rights
32 have been terminated and the case plan is placement for adoption,
33 the case plan shall include a recommendation regarding the
34 appropriateness of unsupervised visitation between the child and
35 any of the child's siblings. This recommendation shall include a
36 statement regarding the child's and the siblings' willingness to
37 participate in unsupervised visitation. If the case plan includes a
38 recommendation for unsupervised sibling visitation, the plan shall
39 also note that information necessary to accomplish this visitation
40 has been provided to the child or to the child's siblings.

1 (B) Information regarding the schedule and frequency of the
2 visits between the child and siblings, as well as any court-ordered
3 terms and conditions needed to facilitate the visits while protecting
4 the safety of the child, shall be provided to the child's out-of-home
5 caregiver as soon as possible after the court order is made.

6 (9) If out-of-home services are used and the goal is reunification,
7 the case plan shall describe the services to be provided to assist in
8 reunification and the services to be provided concurrently to
9 achieve legal permanency if efforts to reunify fail. The plan shall
10 also consider in-state and out-of-state placements, the importance
11 of developing and maintaining sibling relationships pursuant to
12 Section 16002, and the desire and willingness of the caregiver to
13 provide legal permanency for the child if reunification is
14 unsuccessful.

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

25 (11) (A) Parents and legal guardians shall have an opportunity
26 to review the case plan, and to sign it whenever possible, and then
27 shall receive a copy of the plan. In any voluntary service or
28 placement agreement, the parents or legal guardians shall be
29 required to review and sign the case plan. Whenever possible,
30 parents and legal guardians shall participate in the development
31 of the case plan.

32 (B) Parents and legal guardians shall be advised that, pursuant
33 to Section 1228.1 of the Evidence Code, neither their signature on
34 the child welfare services case plan nor their acceptance of any
35 services prescribed in the child welfare services case plan shall
36 constitute an admission of guilt or be used as evidence against the
37 parent or legal guardian in a court of law. However, they shall also
38 be advised that the parent's or guardian's failure to cooperate,
39 except for good cause, in the provision of services specified in the

1 child welfare services case plan may be used in any hearing held
2 pursuant to Section 366.21 or 366.22 as evidence.

3 (12) A child shall be given a meaningful opportunity to
4 participate in the development of the case plan and state his or her
5 preference for foster care placement. A child who is 12 years of
6 age or older and in a permanent placement shall also be given the
7 opportunity to review the case plan, sign the case plan, and receive
8 a copy of the case plan.

9 (13) 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 modifications
14 further the goals of the plan. If out-of-home services are used with
15 the goal of family reunification, the case plan shall consider and
16 describe the application of subdivision (b) of Section 11203.

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

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

39 (g) If the court finds, after considering the case plan, that
40 unsupervised sibling visitation is appropriate and has been

1 consented to, the court shall order that the child or the child's
2 siblings, the child's current caregiver, and the child's prospective
3 adoptive parents, if applicable, be provided with information
4 necessary to accomplish this visitation. This section does not
5 require or prohibit the social worker's facilitation, transportation,
6 or supervision of visits between the child and his or her siblings.

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

11 (i) When a child who is 10 years of age or older and who has
12 been in out-of-home placement for six months or longer, the case
13 plan shall include an identification of individuals, other than the
14 child's siblings, who are important to the child and actions
15 necessary to maintain the child's relationship with those
16 individuals, provided that those relationships are in the best interest
17 of the child. The social worker shall ask every child who is 10
18 years of age or older and who has been in out-of-home placement
19 for six months or longer to identify individuals other than the
20 child's siblings who are important to the child, and may ask any
21 other child to provide that information, as appropriate. The social
22 worker shall make efforts to identify other individuals who are
23 important to the child, consistent with the child's best interests.

24 (j) The child's caregiver shall be provided a copy of a plan
25 outlining the child's needs and services.

26 (k) On or before June 30, 2008, the department, in consultation
27 with the County Welfare Directors Association and other
28 advocates, shall develop a comprehensive plan to ensure that 90
29 percent of foster children are visited by their caseworkers on a
30 monthly basis by October 1, 2011, and that the majority of the
31 visits occur in the residence of the child. The plan shall include
32 any data reporting requirements necessary to comply with the
33 provisions of the federal Child and Family Services Improvement
34 Act of 2006 (Public Law 109-288).

35 (l) The implementation and operation of the amendments to
36 subdivision (i) enacted at the 2005-06 Regular Session shall be
37 subject to appropriation through the budget process and by phase,
38 as provided in Section 366.35.

39 SEC. 8. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 *SEC. 9. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety within*
6 *the meaning of Article IV of the Constitution and shall go into*
7 *immediate effect. The facts constituting the necessity are:*

8 *In order to secure necessary federal funding for the care of*
9 *children in California, it is necessary for this act to take effect*
10 *immediately.*