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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Members Beall and Bass

(Principal coauthor: Senator Liu)

(Coauthors: Assembly Members Ammiano, Anderson, Tom Berryhill, Block, Blumenfield, Brownley, Carter, Chesbro, Conway, Coto, Davis, De La Torre, De Leon, Emmerson, Eng, Evans, Fletcher, Galgiani, Gilmore, Hall, Harkey, Hernandez, Huber, Huffman, Jones, Krekorian, Ma, Monning, Nestande, John A. Perez, Portantino, Salas, Saldana, Skinner, Smyth, Solorio, Audra Strickland, Swanson, Torlakson, Torrico, Villines, and Yamada)

(Coauthors: Senators Cedillo, DeSaulnier, Ducheny, Hancock, Steinberg, and Wiggins)

December 1, 2008

An act to amend Section 17552 of the Family Code, to amend Sections 1501.1 and 1505 of, and to add Section 1502.7 to, the Health and Safety Code, and to amend Sections 293, 300, 303, 358.1, 360, 361.45, 361.5, 366, 366.21, 366.22, 366.25, 366.3, 366.4, 388, 10609.4, 11008.15, 11155.5, 11253, 11360, 11361, 11362, 11363, 11365, 11366, 11367, 11369, 11371, 11372, 11374, 11375, 11376, 11400, 11401, 11401.05, 11401.4, 11401.5, 11402, 11403.2, 11405, 11450, 11450.16, 11454.5, 11461, 11464, 11465, 11466.23, 11466.24, 16120, 16123, 16501, 16501.1, 16501.25, 16503, 16507.3, 16507.4, 16507.6, and

16508 of, to amend, repeal, and add ~~Sections 391 and 11403~~ *Section 391* of, to add Sections 366.31, 11377, *11378*, 11401.05, and 11403.01 to, *to add Article 4.7 (commencing with Section 11385) to Chapter 2 of Part 3 of Division 9 of,* to add and repeal *Section 388.1* of, to repeal Sections 11368, 11370, and 11373 of, *and to repeal and add Section 11364* *Sections 11364 and 11403* of, ~~and to add Article 4.7 (commencing with Section 11385) to Chapter 2 of Part 3 of Division 9 of,~~ the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Beall. California Fostering Connections to Success Act.

(1) Existing law provides for the out-of-home placement of children who are unable to remain in the custody and care of their parent or parents, and provides for a range of child welfare, foster care, and adoption assistance services for which these children may be eligible.

Existing federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008, revises and expands federal programs and funding for certain foster and adopted children.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including facilities that provide care for foster children, by the State Department of Social Services. A violation of these provisions is a misdemeanor.

Existing law authorizes the placement of children with varying designations and varying needs in the same facility under specified circumstances.

This bill would extend these provisions to also include nonminor dependents. The bill would define the term “nonminor dependent” and related terms for purposes of the bill.

This bill, commencing no later than July 1, ~~2011~~ 2012, would require the department, in consultation with specified government and other entities, to revise regulations regarding health and safety standards for licensing foster family homes and community care facilities in which nonminor dependents of the juvenile court are placed under the responsibility of the county welfare or probation department or an Indian tribe that has entered into a specified agreement with the department.

Under existing law, the California Community Care Facilities Act does not apply to designated categories of facilities, including, among

others, the home of a relative caregiver or nonrelative extended family member of a child placed by a juvenile court, as specified.

This bill would include a supervised independent living setting for a nonminor dependent placed by the juvenile court on the list of facilities to which the act does not apply.

(2) Existing law establishes the jurisdiction of the juvenile court, which is permitted to adjudge certain children to be dependents of the court under certain circumstances.

This bill would expand the jurisdiction of the juvenile court by allowing it to adjudge a child placed voluntarily in an approved home of a relative for not more than 180 days a dependent of the court, if prescribed conditions are met.

Existing law authorizes a juvenile court to retain jurisdiction over any person who is found to be a dependent child of the juvenile court until the ward or dependent child attains the age of 21 years.

Existing law places certain minors for whom a guardianship has been established within the jurisdiction of the juvenile court.

This bill would expand the court's jurisdiction to include a nonminor dependent who is eligible to receive specified kinship guardian assistance payments.

This bill would extend the court's jurisdiction to a ward who has been placed into foster care or a dependent who reaches the age of majority before jurisdiction is terminated until the nonminor reaches 21 years of age. The bill, commencing ~~October 1, 2010~~ *January 1, 2013*, would allow a nonminor who left foster care at or after the age of majority to petition the court to have dependency jurisdiction resumed, in accordance with a provision of existing law. By making various conforming changes in provisions relating to the duties of local agency employees in dependency proceedings, this bill would create a state-mandated local program.

(3) Existing law authorizes a social worker to place a child whom the court has ordered to be removed from his or her home into one of 7 designated placements, including the home of a noncustodial parent or the approved home of a relative.

This bill would add to this list of approved placements a supervised independent living setting, as defined by the bill, for a nonminor dependent between 18 and 21 years of age.

(4) Existing law authorizes a change in the placement of a child on an emergency basis due to the sudden unavailability of a foster caregiver.

This bill would require, under these emergency circumstances, when a nonminor dependent is placed in the home of a relative or nonrelative, that the home be approved using the health and safety standards established by the department for the placement of nonminor dependents, as required by the bill.

(5) Existing law requires the status of dependent children to be periodically reviewed, and requires the court to consider the safety of the child and make certain determinations.

This bill similarly would require every nonminor dependent who is in foster care to be reviewed periodically as determined by the court, as specified. This bill, commencing ~~October 1, 2010~~ *January 1, 2011*, would require the court to ensure that the child's transitional independent living case plan includes a plan for the child to meet one or more criteria that would allow the child to remain a nonminor dependent, and to ensure that the child has been informed of his or her right to seek the termination of dependency jurisdiction.

This bill, on and after ~~October 1, 2010~~ *January 1, 2011*, would authorize a court to continue jurisdiction over a nonminor dependent with a permanent plan of long-term foster care, and would designate the responsibilities of the court in this regard.

(6) Existing law establishes procedures for a hearing to terminate the court's jurisdiction over a dependent child who has reached the age of majority.

This bill would delete the existing hearing procedures as of ~~October 1, 2010~~ *January 1, 2011*, and would set forth revised hearing requirements for determining whether to terminate or continue dependency jurisdiction. The bill would require the court to continue dependency jurisdiction for a child participating in certain educational or vocational activities. This bill would impose various duties on county welfare departments in connection with the hearing process, thereby creating a state-mandated local program.

(7) Existing law requires the State Department of Social Services to develop statewide standards for the Independent Living Program for emancipated foster youth which is established and funded pursuant to federal law to assist these individuals in making the transition to self-sufficiency. Under existing law, the department is required to develop and adopt emergency regulations that counties are required to meet when administering the program, that are achievable within available resources.

This bill would require the department to develop and adopt the Independent Living Program regulations on or before July 1, ~~2011~~ 2012, and would specify that the regulations be achievable within both available program resources and available federal funds for case management and case plan review provided for in the federal act. The bill would require the department, on or before July 1, 2011, to review and develop modifications to the Independent Living Program, to also serve the needs of nonminor dependent youth, as specified.

(8) Existing law prohibits benefits under the CalWORKs program from being paid to or on behalf of any child who has attained 18 years of age, unless the child is engaged in specified educational or training activities.

This bill would also authorize a nonminor dependent, as defined, to receive CalWORKs aid, as specified.

(9) Existing law authorizes a child who is declared a ward or dependent child of the court who is 16 years of age or older, to retain specified cash resources and still remain eligible to receive public social services.

This bill would apply this provision to a current or former dependent child or ward of the court between 18 and 21 years of age, who is participating in a transitional independent living case plan pursuant to the federal act.

(10) Existing law, through the Kinship Guardianship Assistance Payment Program (Kin-GAP), which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker. The program is funded by state and county funding and available federal funds.

This bill; would revise the Kin-GAP Program to provide state-funded assistance for youth not eligible under the federally funded program and would require the state to exercise its option under specified federal law to establish a kinship guardianship assistance payment program, as specified, for youth eligible for federal financial participation. The bill would make related conforming changes. *This bill, commencing on the date that the Director of Social Services executes a specified declaration relating to federal funding availability, and until January 1, 2013, would require a county social worker for a child for whom a legal guardianship has been established by the juvenile court, as prescribed, to petition the court having jurisdiction over the guardianship to resume dependency jurisdiction for the sole purpose of determining whether the child is eligible for federal guardianship*

assistance, as described. The bill would specify the duties of the court and the county social worker in this regard, including requiring the court to order a permanent plan of legal guardianship and terminate dependency jurisdiction, if the child appears to be eligible for federal guardianship assistance.

This bill also would require a county, at the time of the annual redetermination of state-funded Kin-GAP benefits, to determine whether a child was receiving federal AFDC-FC benefits before receiving Kin-GAP, while a dependent child or ward of the juvenile court. The bill would require the county to reassign these children to the county social worker for information regarding transition to the federal Kin-GAP program.

By increasing county responsibilities this bill would impose a state-mandated local program.

(11) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age.

This bill would require the department to amend its foster care state plan required under specified federal law, to extend AFDC-FC benefits, commencing ~~October 1, 2010~~ *January 1, 2012*, to specified individuals up to 21 years of age, in accordance with a designated provision of federal law.

This bill would extend AFDC-FC benefits to nonminor dependents, as specified, including revising AFDC-FC rate provisions to apply to these individuals. By expanding eligibility under the county-administered AFDC-FC program, the bill would impose a state-mandated local program.

(12) Under existing law, in order to be eligible for AFDC-FC benefits, a child must be placed in one of 8 designated placements.

This bill would add to the eligible AFDC-FC placements, with respect to an otherwise eligible youth over 18 years of age, an independent, supervised independent living setting. By increasing county duties in administering the AFDC-FC program, the bill would impose a state-mandated local program.

(13) Under existing law, a minor between 16 and 18 years of age who is eligible for AFDC-FC benefits and who meets other specified

requirements is eligible for certain transitional housing placement program services in a participating county.

This bill, commencing ~~October 1, 2010~~ *January 1, 2012*, would make a nonminor dependent who is eligible for AFDC-FC benefits also eligible for transitional housing benefits.

This bill would revise existing provisions relating to the resolution of certain foster care overpayments to apply to Kin-GAP guardian homes and payments on behalf of nonminor dependents residing in supervised independent living settings.

(14) Under existing law, a parent or caretaker relative is ineligible to receive CalWORKs aid when he or she has received aid for a cumulative total of 60 months. Existing law excludes from this calculation months when designated conditions exist.

This bill, commencing ~~October 1, 2010~~ *January 1, 2011*, would additionally exclude from the above calculation months when a recipient is a nonminor dependent participating in educational or training activities, as prescribed.

Moneys from the General Fund are continuously appropriated to pay for a portion of CalWORKs aid grant costs, and for the state's share of AFDC-FC costs.

This bill would provide that no appropriation from the General Fund would be made for the purposes of implementing these provisions.

By increasing duties of counties administering the AFDC-FC program, this bill also would impose a state-mandated local program.

(15) Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes. The AAP provides for the payment by the department and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs. Existing law sets forth eligibility requirements for the AAP, including that a child must be under 18 years of age, or under 21 years of age with a mental or physical disability that warrants continued assistance.

This bill would additionally include children under 21 years of age who turned 16 years of age before the adoption assistance agreement became effective, and is involved in designated education or employment activities, or is incapable of engaging in these activities due to a medical condition. Payment of adoption assistance would be

available for these individuals commencing ~~October 1, 2010~~ *January 1, 2012*, as long as specified federal funds remain available and the state continues to exercise its option to extend payments up to 21 years of age pursuant to the federal act.

(16) Existing law requires the state, through the department and county welfare departments, to establish and support a public system of statewide child welfare services. Under existing law, the term “child welfare services” includes various services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. Existing law establishes the case plan as the foundation and central unifying tool in the provision of child welfare services.

This bill would revise the definition of child welfare services to include transitional independent living services, as needed in connection with the provision of other permanent placement services. The bill would revise the requirements for the case plan, effective ~~October 1, 2010~~ *January 1, 2012*, with respect to nonminor dependents, to address the developmental needs of young adults, as specified. The bill would also require the case plan to specify why a group home placement, if made, is necessary for the nonminor dependent’s transition to independent living, and would require the nonminor dependent to participate and develop, and to sign, his or her case plan, commencing ~~October 1, 2010~~ *January 1, 2012*. By increasing the duties of counties in preparing case plans, the bill would impose a state-mandated local program.

This bill would revise the definition of a whole family foster home, to include a home that provides foster care for a nonminor dependent parent and his or her child, for purposes of the AFDC-FC program. Effective ~~October 1, 2010~~ *January 1, 2012*, the bill would require that the same rate be paid for the care and supervision of the child of a nonminor dependent as is paid for the child of a teen parent in a whole family foster home. The bill would make other provisions applicable to a teen parent, for purposes of the child welfare services program, also applicable to certain nonminor dependents living in a whole family foster home.

Existing law limits child welfare services for voluntarily placed children to a period not to exceed 6 *consecutive* months.

This bill would, instead, limit the services to a period not to exceed 180 days, and would make conforming changes.

(17) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 “California Fostering Connections to Success Act.”

3 SEC. 2. Section 17552 of the Family Code is amended to read:

4 17552. (a) The State Department of Social Services, in
5 consultation with the Department of Child Support Services, shall
6 promulgate regulations by which the county child welfare
7 department, in any case of separation or desertion of a parent or
8 parents from a child that results in foster care assistance payments
9 under Section 11400 of, or CalWORKs payments to a caretaker
10 relative of a child who comes within the jurisdiction of the juvenile
11 court under Section 300, 601, or 602 of the Welfare and Institutions
12 Code, who has been removed from the parental home and placed
13 with the caretaker relative by court order, and who is under the
14 supervision of the county child welfare agency or probation
15 department under Section 11250 of, or Kin-GAP payments under
16 Article 4.5 (commencing with Section 11360) or Article 4.7
17 (commencing with Section 11385) of, or aid under subdivision (c)
18 of Section 10101 of, the Welfare and Institutions Code, shall
19 determine whether it is in the best interests of the child to have the
20 case referred to the local child support agency for child support
21 services. If reunification services are not offered or are terminated,
22 the case may be referred to the local child support agency, unless
23 the child’s permanent plan is Kin-GAP and the payment of support
24 by the parent may compromise the stability of the related
25 guardianship. In making the determination, the department

1 regulations shall provide the factors the county child welfare
2 department shall consider, including:

3 (1) Whether the payment of support by the parent will pose a
4 barrier to the proposed reunification, in that the payment of support
5 will compromise the parent's ability to meet the requirements of
6 the parent's reunification plan.

7 (2) Whether the payment of support by the parent will pose a
8 barrier to the proposed reunification in that the payment of support
9 will compromise the parent's current or future ability to meet the
10 financial needs of the child.

11 (b) The department regulations shall provide that, where the
12 county child welfare department determines that it is not in the
13 best interests of the child to seek a support order against the parent,
14 the county child welfare department shall refrain from referring
15 the case to the local child support agency. The regulations shall
16 define those circumstances in which it is not in the best interest of
17 the child to refer the case to the local child support agency.

18 (c) The department regulations shall provide, where the county
19 child welfare department determines that it is not in the child's
20 best interest to have his or her case referred to the local child
21 support agency, the county child welfare department shall review
22 that determination annually to coincide with the redetermination
23 of AFDC-FC eligibility under Section 11401.5 of, or the
24 CalWORKs eligibility under Section 11265 of, or Kin-GAP
25 eligibility under Article 4.5 (commencing with Section 11360) or
26 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part
27 3 of Division 9 of, the Welfare and Institutions Code, and shall
28 refer the child's case to the local child support agency upon a
29 determination that, due to a change in the child's circumstances,
30 it is no longer contrary to the child's best interests to have his or
31 her case referred to the local child support agency.

32 (d) The State Department of Social Services shall promulgate
33 all necessary regulations pursuant to this section on or before
34 October 1, 2002.

35 SEC. 3. Section 1501.1 of the Health and Safety Code is
36 amended to read:

37 1501.1. (a) It is the policy of the state to facilitate the proper
38 placement of every child in residential care facilities where the
39 placement is in the best interests of the child. A county may require
40 placement or licensing agencies, or both placement and licensing

1 agencies, to actively seek out-of-home care facilities capable of
2 meeting the varied needs of the child. Therefore, in placing children
3 in out-of-home care, particular attention should be given to the
4 individual child's needs, the ability of the facility to meet those
5 needs, the needs of other children in the facility, the licensing
6 requirements of the facility as determined by the licensing agency,
7 and the impact of the placement on the family reunification plan.

8 (b) Pursuant to this section, children with varying designations
9 and varying needs, including nonminor dependents, as defined in
10 subdivision (v) of Section 11400 of the Welfare and Institutions
11 Code, except as provided by statute, may be placed in the same
12 facility provided the facility is licensed, complies with all licensing
13 requirements relevant to the protection of the child, and has a
14 special permit, if necessary, to meet the needs of each child so
15 placed. A facility may not require, as a condition of placement,
16 that a child be identified as an individual with exceptional needs
17 as defined by Section 56026 of the Education Code.

18 (c) Neither the requirement for any license nor any regulation
19 shall restrict the implementation of the provisions of this section.
20 Implementation of this section does not obviate the requirement
21 for a facility to be licensed by the department.

22 (d) Pursuant to this section, children with varying designations
23 and varying needs, including nonminor dependents, except as
24 provided by statute, may be placed in the same licensed foster
25 family home or with a foster family agency for subsequent
26 placement in a certified family home. Children with developmental
27 disabilities, mental disorders, or physical disabilities may be placed
28 in licensed foster family homes or certified family homes, provided
29 that an appraisal of the child's needs and the ability of the receiving
30 home to meet those needs is made jointly by the placement agency
31 and the licensee in the case of licensed foster family homes or the
32 placement agency and the foster family agency in the case of
33 certified family homes, and is followed by written confirmation
34 prior to placement. The appraisal shall confirm that the placement
35 poses no threat to any child in the home.

36 For purposes of this chapter, the placing of children by foster
37 family agencies shall be referred to as "subsequent placement" to
38 distinguish the activity from the placing by public agencies.

39 SEC. 4. Section 1502.7 is added to the Health and Safety Code,
40 to read:

1 1502.7. (a) On or before July 1, ~~2011~~ 2012, the department,
2 in consultation with representatives of the Legislature, the County
3 Welfare Directors Association, the Chief Probation Officers of
4 California, the California Youth Connection, the Judicial Council,
5 former foster youth, child advocacy organizations, dependency
6 counsel for children, foster caregiver organizations, labor
7 organizations, and representatives of tribes, shall revise regulations
8 regarding health and safety standards for licensing foster family
9 homes and community care facilities in which nonminor
10 dependents, as defined in subdivision (v) of Section 11400 of the
11 Welfare and Institutions Code, of the juvenile court are placed
12 under the responsibility of the county welfare or probation
13 department or an Indian tribe that entered into an agreement
14 pursuant to Section 10553.1 of the Welfare and Institutions Code.

15 (b) The regulations shall recognize the status of nonminor
16 dependents as legal adults. At a minimum, the regulations shall
17 provide both of the following:

18 (1) That nonminors described in subdivision (a) shall have the
19 greatest amount of freedom that will safely prepare them for
20 self-sufficiency.

21 (2) That nonminors who remain in the same community care
22 facility that they were placed in while under 18 years of age, and
23 that facility has children under 18 years of age need not be subject
24 to criminal background clearances pursuant to Sections 1522 and
25 1522.1.

26 (c) Notwithstanding the Administrative Procedure Act, Chapter
27 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
28 Title 2 of the Government Code, the department shall, in
29 consultation with the stakeholders listed in subdivision (a), prepare
30 for implementation of the applicable provisions of this section by
31 publishing all-county letters or similar instructions from the director
32 by July 1, ~~2010~~ 2011, to apply from October 1, ~~2010~~ 2011, to June
33 30, ~~2011~~ 2012, inclusive. Emergency regulations to implement
34 this section may be adopted by the director in accordance with the
35 Administrative Procedure Act. The initial adoption of the
36 emergency regulations and one readoption of the initial regulations
37 shall be deemed to be an emergency and necessary for the
38 immediate preservation of the public peace, health, safety, or
39 general welfare. Initial emergency regulations and the first
40 readoption of those emergency regulations shall be exempt from

1 review by the Office of Administrative Law. The emergency
2 regulations authorized by this section shall be submitted to the
3 Office of Administrative Law for filing with the Secretary of State
4 and shall remain in effect for no more than 180 days.

5 SEC. 5. Section 1505 of the Health and Safety Code is amended
6 to read:

7 1505. This chapter does not apply to any of the following:

8 (a) Any health facility, as defined by Section 1250.

9 (b) Any clinic, as defined by Section 1202.

10 (c) Any juvenile placement facility approved by the California
11 Youth Authority or any juvenile hall operated by a county.

12 (d) Any place in which a juvenile is judicially placed pursuant
13 to subdivision (a) of Section 727 of the Welfare and Institutions
14 Code.

15 (e) Any child day care facility, as defined in Section 1596.750.

16 (f) Any facility conducted by and for the adherents of any
17 well-recognized church or religious denomination for the purpose
18 of providing facilities for the care or treatment of the sick who
19 depend upon prayer or spiritual means for healing in the practice
20 of the religion of the church or denomination.

21 (g) Any school dormitory or similar facility determined by the
22 department.

23 (h) Any house, institution, hotel, homeless shelter, or other
24 similar place that supplies board and room only, or room only, or
25 board only, provided that no resident thereof requires any element
26 of care as determined by the director.

27 (i) Recovery houses or other similar facilities providing group
28 living arrangements for persons recovering from alcoholism or
29 drug addiction where the facility provides no care or supervision.

30 (j) Any alcoholism or drug abuse recovery or treatment facility
31 as defined by Section 11834.11.

32 (k) Any arrangement for the receiving and care of persons by
33 a relative or any arrangement for the receiving and care of persons
34 from only one family by a close friend of the parent, guardian, or
35 conservator, if the arrangement is not for financial profit and occurs
36 only occasionally and irregularly, as defined by regulations of the
37 department. For purposes of this chapter, arrangements for the
38 receiving and care of persons by a relative shall include relatives
39 of the child for the purpose of keeping sibling groups together.

1 (l) (1) Any home of a relative caregiver of children who are
2 placed by a juvenile court, supervised by the county welfare or
3 probation department, and the placement of whom is approved
4 according to subdivision (d) of Section 309 of the Welfare and
5 Institutions Code.

6 (2) Any home of a nonrelative extended family member, as
7 described in Section 362.7 of the Welfare and Institutions Code,
8 providing care to children who are placed by a juvenile court,
9 supervised by the county welfare or probation department, and the
10 placement of whom is approved according to subdivision (d) of
11 Section 309 of the Welfare and Institutions Code.

12 (3) Any supervised independent living setting for nonminor
13 dependents, as defined in subdivision (w) of Section 11400 of the
14 Welfare and Institutions Code, who are placed by the juvenile
15 court, supervised by the county welfare department, probation
16 department, or Indian tribe that entered into an agreement pursuant
17 to Section 10553.1 of the Welfare and Institutions Code, and whose
18 placement is approved pursuant to subdivision (k) of Section 11400
19 of the Welfare and Institutions Code.

20 (m) Any supported living arrangement for individuals with
21 developmental disabilities as defined in Section 4689 of the
22 Welfare and Institutions Code.

23 (n) (1) Any family home agency, family home, or family
24 teaching home as defined in Section 4689.1 of the Welfare and
25 Institutions Code, that is vendored by the State Department of
26 Developmental Services and that does any of the following:

27 (A) As a family home approved by a family home agency,
28 provides 24-hour care for one or two adults with developmental
29 disabilities in the residence of the family home provider or
30 providers and the family home provider or providers' family, and
31 the provider is not licensed by the State Department of Social
32 Services or the State Department of Health Care Services or
33 certified by a licensee of the State Department of Social Services
34 or the State Department of Health Care Services.

35 (B) As a family teaching home approved by a family home
36 agency, provides 24-hour care for a maximum of three adults with
37 developmental disabilities in independent residences, whether
38 contiguous or attached, and the provider is not licensed by the
39 State Department of Social Services or the State Department of
40 Health Care Services or certified by a licensee of the State

1 Department of Social Services or the State Department of Health
2 Care Services.

3 (C) As a family home agency, engages in recruiting, approving,
4 and providing support to family homes.

5 (2) No part of this subdivision shall be construed as establishing
6 by implication either a family home agency or family home
7 licensing category.

8 (o) Any facility in which only Indian children who are eligible
9 under the federal Indian Child Welfare Act, Chapter 21
10 (commencing with Section 1901) of Title 25 of the United States
11 Code are placed and that is one of the following:

12 (1) An extended family member of the Indian child, as defined
13 in Section 1903 of Title 25 of the United States Code.

14 (2) A foster home that is licensed, approved, or specified by the
15 Indian child's tribe pursuant to Section 1915 of Title 25 of the
16 United States Code.

17 (p) Any housing for elderly or disabled persons, or both, that is
18 approved and operated pursuant to Section 202 of Public Law
19 86-372 (12 U.S.C.A. Sec. 1701g), or Section 811 of Public Law
20 101-625 (42 U.S.C.A. Sec. 8013), or whose mortgage is insured
21 pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec.
22 1715z), or that receives mortgage assistance pursuant to Section
23 221d (3) of Public Law 87-70 (12 U.S.C.A. Sec. ~~1715l~~ 1715l),
24 where supportive services are made available to residents at their
25 option, as long as the project owner or operator does not contract
26 for or provide the supportive services. The project owner or
27 operator may coordinate, or help residents gain access to, the
28 supportive services, either directly, or through a service
29 coordinator.

30 (q) Any similar facility determined by the director.

31 SEC. 6. Section 293 of the Welfare and Institutions Code is
32 amended to read:

33 293. The social worker or probation officer shall give notice
34 of the review hearings held pursuant to Section 366.21, 366.22,
35 or 366.25 in the following manner:

36 (a) Notice of the hearing shall be given to the following persons:

37 (1) The mother.

38 (2) The presumed father or any father receiving services.

39 (3) The legal guardian or guardians.

40 (4) The child, if the child is 10 years of age or older.

1 (5) Any known sibling of the child who is the subject of the
2 hearing if that sibling either is the subject of a dependency
3 proceeding or has been adjudged to be a dependent child of the
4 juvenile court. If the sibling is 10 years of age or older, the sibling,
5 the sibling's caregiver, and the sibling's attorney. If the sibling is
6 under 10 years of age, the sibling's caregiver and the sibling's
7 attorney. However, notice is not required to be given to any sibling
8 whose matter is calendared in the same court on the same day.

9 (6) In the case of a child removed from the physical custody of
10 his or her parent or legal guardian, the current caregiver of the
11 child, including the foster parents, relative caregivers, preadoptive
12 parents, nonrelative extended family members, community care
13 facility, or foster family agency having custody of the child. In a
14 case in which a foster family agency is notified of the hearing
15 pursuant to this section, and the child resides in a foster home
16 certified by the foster family agency, the foster family agency shall
17 provide timely notice of the hearing to the child's caregivers.

18 (7) Each attorney of record if that attorney was not present at
19 the time that the hearing was set by the court.

20 (b) No notice is required for a parent whose parental rights have
21 been terminated.

22 (c) The notice of hearing shall be served not earlier than 30
23 days, nor later than 15 days, before the hearing.

24 (d) The notice shall contain a statement regarding the nature of
25 the hearing to be held and any change in the custody or status of
26 the child being recommended by the supervising agency. If the
27 notice is to the child, parent or parents, or legal guardian or
28 guardians, the notice shall also advise them of the right to be
29 present, the right to be represented by counsel, the right to request
30 counsel, and the right to present evidence. The notice shall also
31 state that if the parent or parents or legal guardian or guardians
32 fail to appear, the court may proceed without them.

33 (e) Service of the notice shall be by first-class mail addressed
34 to the last known address of the person to be noticed or by personal
35 service on the person. Service of a copy of the notice shall be by
36 personal service or by certified mail, return receipt requested, or
37 any other form of notice that is equivalent to service by first-class
38 mail.

39 (f) Notice to the current caregiver of the child, including a foster
40 parent, a relative caregiver, a preadoptive parent, or a nonrelative

1 extended family member, or to a certified foster parent who has
2 been approved for adoption, or the State Department of Social
3 Services when it is acting as an adoption agency in counties that
4 are not served by a county adoption agency or by a licensed county
5 adoption agency, shall indicate that the person notified may attend
6 all hearings or may submit any information he or she deems
7 relevant to the court in writing.

8 (g) If the social worker or probation officer knows or has reason
9 to know that an Indian child is involved, notice shall be given in
10 accordance with Section 224.2.

11 SEC. 7. Section 300 of the Welfare and Institutions Code is
12 amended to read:

13 300. Any child who comes within any of the following
14 descriptions is within the jurisdiction of the juvenile court which
15 may adjudge that person to be a dependent child of the court:

16 (a) The child has suffered, or there is a substantial risk that the
17 child will suffer, serious physical harm inflicted nonaccidentally
18 upon the child by the child's parent or guardian. For the purposes
19 of this subdivision, a court may find there is a substantial risk of
20 serious future injury based on the manner in which a less serious
21 injury was inflicted, a history of repeated inflictions of injuries on
22 the child or the child's siblings, or a combination of these and other
23 actions by the parent or guardian which indicate the child is at risk
24 of serious physical harm. For purposes of this subdivision, "serious
25 physical harm" does not include reasonable and age-appropriate
26 spanking to the buttocks where there is no evidence of serious
27 physical injury.

28 (b) The child has suffered, or there is a substantial risk that the
29 child will suffer, serious physical harm or illness, as a result of the
30 failure or inability of his or her parent or guardian to adequately
31 supervise or protect the child, or the willful or negligent failure of
32 the child's parent or guardian to adequately supervise or protect
33 the child from the conduct of the custodian with whom the child
34 has been left, or by the willful or negligent failure of the parent or
35 guardian to provide the child with adequate food, clothing, shelter,
36 or medical treatment, or by the inability of the parent or guardian
37 to provide regular care for the child due to the parent's or
38 guardian's mental illness, developmental disability, or substance
39 abuse. No child shall be found to be a person described by this
40 subdivision solely due to the lack of an emergency shelter for the

1 family. Whenever it is alleged that a child comes within the
2 jurisdiction of the court on the basis of the parent's or guardian's
3 willful failure to provide adequate medical treatment or specific
4 decision to provide spiritual treatment through prayer, the court
5 shall give deference to the parent's or guardian's medical treatment,
6 nontreatment, or spiritual treatment through prayer alone in
7 accordance with the tenets and practices of a recognized church
8 or religious denomination, by an accredited practitioner thereof,
9 and shall not assume jurisdiction unless necessary to protect the
10 child from suffering serious physical harm or illness. In making
11 its determination, the court shall consider (1) the nature of the
12 treatment proposed by the parent or guardian, (2) the risks to the
13 child posed by the course of treatment or nontreatment proposed
14 by the parent or guardian, (3) the risk, if any, of the course of
15 treatment being proposed by the petitioning agency, and (4) the
16 likely success of the courses of treatment or nontreatment proposed
17 by the parent or guardian and agency. The child shall continue to
18 be a dependent child pursuant to this subdivision only so long as
19 is necessary to protect the child from risk of suffering serious
20 physical harm or illness.

21 (c) The child is suffering serious emotional damage, or is at
22 substantial risk of suffering serious emotional damage, evidenced
23 by severe anxiety, depression, withdrawal, or untoward aggressive
24 behavior toward self or others, as a result of the conduct of the
25 parent or guardian or who has no parent or guardian capable of
26 providing appropriate care. No child shall be found to be a person
27 described by this subdivision if the willful failure of the parent or
28 guardian to provide adequate mental health treatment is based on
29 a sincerely held religious belief and if a less intrusive judicial
30 intervention is available.

31 (d) The child has been sexually abused, or there is a substantial
32 risk that the child will be sexually abused, as defined in Section
33 11165.1 of the Penal Code, by his or her parent or guardian or a
34 member of his or her household, or the parent or guardian has
35 failed to adequately protect the child from sexual abuse when the
36 parent or guardian knew or reasonably should have known that
37 the child was in danger of sexual abuse.

38 (e) The child is under the age of five years and has suffered
39 severe physical abuse by a parent, or by any person known by the
40 parent, if the parent knew or reasonably should have known that

1 the person was physically abusing the child. For the purposes of
2 this subdivision, “severe physical abuse” means any of the
3 following: any single act of abuse which causes physical trauma
4 of sufficient severity that, if left untreated, would cause permanent
5 physical disfigurement, permanent physical disability, or death;
6 any single act of sexual abuse which causes significant bleeding,
7 deep bruising, or significant external or internal swelling; or more
8 than one act of physical abuse, each of which causes bleeding,
9 deep bruising, significant external or internal swelling, bone
10 fracture, or unconsciousness; or the willful, prolonged failure to
11 provide adequate food. A child may not be removed from the
12 physical custody of his or her parent or guardian on the basis of a
13 finding of severe physical abuse unless the social worker has made
14 an allegation of severe physical abuse pursuant to Section 332.

15 (f) The child’s parent or guardian caused the death of another
16 child through abuse or neglect.

17 (g) The child has been left without any provision for support;
18 physical custody of the child has been voluntarily surrendered
19 pursuant to Section 1255.7 of the Health and Safety Code and the
20 child has not been reclaimed within the 14-day period specified
21 in subdivision (e) of that section; the child’s parent has been
22 incarcerated or institutionalized and cannot arrange for the care of
23 the child; or a relative or other adult custodian with whom the child
24 resides or has been left is unwilling or unable to provide care or
25 support for the child, the whereabouts of the parent are unknown,
26 and reasonable efforts to locate the parent have been unsuccessful.

27 (h) The child has been freed for adoption by one or both parents
28 for 12 months by either relinquishment or termination of parental
29 rights or an adoption petition has not been granted.

30 (i) The child has been subjected to an act or acts of cruelty by
31 the parent or guardian or a member of his or her household, or the
32 parent or guardian has failed to adequately protect the child from
33 an act or acts of cruelty when the parent or guardian knew or
34 reasonably should have known that the child was in danger of
35 being subjected to an act or acts of cruelty.

36 (j) The child’s sibling has been abused or neglected, as defined
37 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
38 that the child will be abused or neglected, as defined in those
39 subdivisions. The court shall consider the circumstances
40 surrounding the abuse or neglect of the sibling, the age and gender

1 of each child, the nature of the abuse or neglect of the sibling, the
2 mental condition of the parent or guardian, and any other factors
3 the court considers probative in determining whether there is a
4 substantial risk to the child.

5 (k) The child has been placed in an approved relative's home
6 under a voluntary placement agreement pursuant to Section
7 16507.6 for a period not to exceed 180 days, the parent or guardian
8 is not interested in additional family maintenance or family
9 reunification services, and guardianship of the child by that relative
10 is an appropriate option.

11 It is the intent of the Legislature that nothing in this section
12 disrupt the family unnecessarily or intrude inappropriately into
13 family life, prohibit the use of reasonable methods of parental
14 discipline, or prescribe a particular method of parenting. Further,
15 nothing in this section is intended to limit the offering of voluntary
16 services to those families in need of assistance but who do not
17 come within the descriptions of this section. To the extent that
18 savings accrue to the state from child welfare services funding
19 obtained as a result of the enactment of the act that enacted this
20 section, those savings shall be used to promote services which
21 support family maintenance and family reunification plans, such
22 as client transportation, out-of-home respite care, parenting
23 training, and the provision of temporary or emergency in-home
24 caretakers and persons teaching and demonstrating homemaking
25 skills. The Legislature further declares that a physical disability,
26 such as blindness or deafness, is no bar to the raising of happy and
27 well-adjusted children and that a court's determination pursuant
28 to this section shall center upon whether a parent's disability
29 prevents him or her from exercising care and control. The
30 Legislature further declares that a child whose parent has been
31 adjudged a dependent child of the court pursuant to this section
32 shall not be considered to be at risk of abuse or neglect solely
33 because of the age, dependent status, or foster care status of the
34 parent.

35 As used in this section, "guardian" means the legal guardian of
36 the child.

37 SEC. 8. Section 303 of the Welfare and Institutions Code is
38 amended to read:

1 303. (a) The court may retain jurisdiction over any person who
2 is found to be a dependent child of the juvenile court until the ward
3 or dependent child attains the age of 21 years.

4 (b) The court shall have within its jurisdiction any nonminor
5 dependent, as defined in subdivision (v) of Section 11400. The
6 court may terminate its dependency or delinquency jurisdiction
7 over the nonminor dependent between the time the nonminor
8 reaches the age of majority and 21 years of age. If the court
9 terminates dependency or delinquency jurisdiction, the nonminor
10 dependent shall remain under the jurisdiction of the court in order
11 to allow for a petition under subdivision (e) of Section 388.

12 (c) On and after ~~October 1, 2010~~ *January 1, 2013*, a nonminor
13 who has not yet attained 21 years of age and who exited foster
14 care at or after the age of majority may petition the court pursuant
15 to subdivision (e) of Section 388 to resume dependency or
16 delinquency jurisdiction over the nonminor dependent.

17 (d) Nothing in this code, including, but not limited to, Sections
18 340, 366.27, and 369.5, shall be construed to provide legal custody
19 of a person who has attained 18 years of age to the county welfare
20 or probation department or to otherwise abrogate any other rights
21 that a person who has attained 18 years of age may have as an
22 adult under California law. A nonminor dependent shall retain all
23 of his or her legal decisionmaking authority as an adult.

24 (e) Unless otherwise specified the rights of a dependent child
25 and the responsibilities of the county welfare or probation
26 department, or tribe, and other entities, toward the child and family,
27 shall also apply to nonminor dependents.

28 ~~SEC. 9. Section 358.1 of the Welfare and Institutions Code is~~
29 ~~amended to read:~~

30 ~~358.1. Each social study or evaluation made by a social worker~~
31 ~~or child advocate appointed by the court, required to be received~~
32 ~~in evidence pursuant to Section 358, shall include, but not be~~
33 ~~limited to, a factual discussion of each of the following subjects:~~

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

39 ~~(b) What plan, if any, for return of the child to his or her parents~~
40 ~~and for achieving legal permanence for the child if efforts to reunify~~

1 fail, is recommended to the court by the county welfare department
2 or probation officer.

3 ~~(e) Whether the best interests of the child will be served by~~
4 ~~granting reasonable visitation rights with the child to his or her~~
5 ~~grandparents, in order to maintain and strengthen the child's family~~
6 ~~relationships.~~

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

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

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

13 ~~(C) If the siblings are not placed together in the same home,~~
14 ~~why the siblings are not placed together and what efforts are being~~
15 ~~made to place the siblings together, or why those efforts are not~~
16 ~~appropriate.~~

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

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

21 ~~(2) The factual discussion shall include a discussion of indicators~~
22 ~~of the nature of the child's sibling relationships, including, but not~~
23 ~~limited to, whether the siblings were raised together in the same~~
24 ~~home, whether the siblings have shared significant common~~
25 ~~experiences or have existing close and strong bonds, whether either~~
26 ~~sibling expresses a desire to visit or live with his or her sibling, as~~
27 ~~applicable, and whether ongoing contact is in the child's best~~
28 ~~emotional interest.~~

29 ~~(e) If the parent or guardian is unwilling or unable to participate~~
30 ~~in making an educational decision for his or her child, or if other~~
31 ~~circumstances exist that compromise the ability of the parent or~~
32 ~~guardian to make educational decisions for the child, the county~~
33 ~~welfare department or social worker shall consider whether the~~
34 ~~right of the parent or guardian to make educational decisions for~~
35 ~~the child should be limited. If the study or evaluation makes that~~
36 ~~recommendation, it shall identify whether there is a responsible~~
37 ~~adult available to make educational decisions for the child pursuant~~
38 ~~to Section 361.~~

1 ~~(f) Whether the child appears to be a person who is eligible to~~
2 ~~be considered for further court action to free the child from parental~~
3 ~~custody and control.~~

4 ~~(g) Whether the parent has been advised of his or her option to~~
5 ~~participate in adoption planning, including the option to enter into~~
6 ~~a postadoption contact agreement as described in Section 8714.7~~
7 ~~of the Family Code, and to voluntarily relinquish the child for~~
8 ~~adoption if an adoption agency is willing to accept the~~
9 ~~relinquishment.~~

10 ~~(h) The appropriateness of any relative placement pursuant to~~
11 ~~Section 361.3. However, this consideration may not be cause for~~
12 ~~continuance of the dispositional hearing.~~

13 ~~(i) Whether the caregiver desires, and is willing, to provide legal~~
14 ~~permanency for the child if reunification is unsuccessful.~~

15 ~~(j) Whether the child has been placed in an approved relative's~~
16 ~~home under a voluntary placement agreement for a period not to~~
17 ~~exceed 180 days, the parent or guardian is not interested in~~
18 ~~additional family maintenance or family reunification services,~~
19 ~~and the relative desires and is willing to be appointed the child's~~
20 ~~legal guardian.~~

21 *SEC. 9. Section 358.1 of the Welfare and Institutions Code, as*
22 *amended by Section 4 of Chapter 287 of the Statutes of 2009, is*
23 *amended to read:*

24 358.1. Each social study or evaluation made by a social worker
25 or child advocate appointed by the court, required to be received
26 in evidence pursuant to Section 358, shall include, but not be
27 limited to, a factual discussion of each of the following subjects:

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

33 (b) What plan, if any, for return of the child to his or her parents
34 and for achieving legal permanence for the child if efforts to reunify
35 fail, is recommended to the court by the county welfare department
36 or probation officer.

37 (c) Whether the best interests of the child will be served by
38 granting reasonable visitation rights with the child to his or her
39 grandparents, in order to maintain and strengthen the child's family
40 relationships.

- 1 (d) (1) Whether the child has siblings under the court's
2 jurisdiction, and, if any siblings exist, all of the following:
- 3 (A) The nature of the relationship between the child and his or
4 her siblings.
- 5 (B) The appropriateness of developing or maintaining the sibling
6 relationships pursuant to Section 16002.
- 7 (C) If the siblings are not placed together in the same home,
8 why the siblings are not placed together and what efforts are being
9 made to place the siblings together, or why those efforts are not
10 appropriate.
- 11 (D) If the siblings are not placed together, the frequency and
12 nature of the visits between siblings.
- 13 (E) The impact of the sibling relationships on the child's
14 placement and planning for legal permanence.
- 15 (2) The factual discussion shall include a discussion of indicators
16 of the nature of the child's sibling relationships, including, but not
17 limited to, whether the siblings were raised together in the same
18 home, whether the siblings have shared significant common
19 experiences or have existing close and strong bonds, whether either
20 sibling expresses a desire to visit or live with his or her sibling, as
21 applicable, and whether ongoing contact is in the child's best
22 emotional interest.
- 23 (e) If the parent or guardian is unwilling or unable to participate
24 in making an educational decision for his or her child, or if other
25 circumstances exist that compromise the ability of the parent or
26 guardian to make educational decisions for the child, the county
27 welfare department or social worker shall consider whether the
28 right of the parent or guardian to make educational decisions for
29 the child should be limited. If the study or evaluation makes that
30 recommendation, it shall identify whether there is a responsible
31 adult available to make educational decisions for the child pursuant
32 to Section 361.
- 33 (f) Whether the child appears to be a person who is eligible to
34 be considered for further court action to free the child from parental
35 custody and control.
- 36 (g) Whether the parent has been advised of his or her option to
37 participate in adoption planning, including the option to enter into
38 a postadoption contact agreement as described in Section 8714.7
39 of the Family Code, and to voluntarily relinquish the child for

1 adoption if an adoption agency is willing to accept the
2 relinquishment.

3 (h) The appropriateness of any relative placement pursuant to
4 Section 361.3. However, this consideration may not be cause for
5 continuance of the dispositional hearing.

6 (i) Whether the caregiver desires, and is willing, to provide legal
7 permanency for the child if reunification is unsuccessful.

8 (j) For an Indian child, in consultation with the Indian child's
9 tribe, whether tribal customary adoption is an appropriate
10 permanent plan for the child if reunification is unsuccessful.

11 (k) *Whether the child has been placed in an approved relative's*
12 *home under a voluntary placement agreement for a period not to*
13 *exceed 180 days, the parent or guardian is not interested in*
14 *additional family maintenance or family reunification services,*
15 *and the relative desires and is willing to be appointed the child's*
16 *legal guardian.*

17 ~~(k)~~

18 (l) This section shall remain in effect only until January 1, 2014,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2014, deletes or extends that date.

21 *SEC. 10. Section 358.1 of the Welfare and Institutions Code,*
22 *as added by Section 5 of Chapter 287 of the Statutes of 2009, is*
23 *amended to read:*

24 358.1. Each social study or evaluation made by a social worker
25 or child advocate appointed by the court, required to be received
26 in evidence pursuant to Section 358, shall include, but not be
27 limited to, a factual discussion of each of the following subjects:

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

33 (b) What plan, if any, for return of the child to his or her parents
34 and for achieving legal permanence for the child if efforts to reunify
35 fail, is recommended to the court by the county welfare department
36 or probation officer.

37 (c) Whether the best interests of the child will be served by
38 granting reasonable visitation rights with the child to his or her
39 grandparents, in order to maintain and strengthen the child's family
40 relationships.

- 1 (d) (1) Whether the child has siblings under the court’s
2 jurisdiction, and, if any siblings exist, all of the following:
- 3 (A) The nature of the relationship between the child and his or
4 her siblings.
- 5 (B) The appropriateness of developing or maintaining the sibling
6 relationships pursuant to Section 16002.
- 7 (C) If the siblings are not placed together in the same home,
8 why the siblings are not placed together and what efforts are being
9 made to place the siblings together, or why those efforts are not
10 appropriate.
- 11 (D) If the siblings are not placed together, the frequency and
12 nature of the visits between siblings.
- 13 (E) The impact of the sibling relationships on the child’s
14 placement and planning for legal permanence.
- 15 (2) The factual discussion shall include a discussion of indicators
16 of the nature of the child’s sibling relationships, including, but not
17 limited to, whether the siblings were raised together in the same
18 home, whether the siblings have shared significant common
19 experiences or have existing close and strong bonds, whether either
20 sibling expresses a desire to visit or live with his or her sibling, as
21 applicable, and whether ongoing contact is in the child’s best
22 emotional interest.
- 23 (e) If the parent or guardian is unwilling or unable to participate
24 in making an educational decision for his or her child, or if other
25 circumstances exist that compromise the ability of the parent or
26 guardian to make educational decisions for the child, the county
27 welfare department or social worker shall consider whether the
28 right of the parent or guardian to make educational decisions for
29 the child should be limited. If the study or evaluation makes that
30 recommendation, it shall identify whether there is a responsible
31 adult available to make educational decisions for the child pursuant
32 to Section 361.
- 33 (f) Whether the child appears to be a person who is eligible to
34 be considered for further court action to free the child from parental
35 custody and control.
- 36 (g) Whether the parent has been advised of his or her option to
37 participate in adoption planning, including the option to enter into
38 a postadoption contact agreement as described in Section 8714.7
39 of the Family Code, and to voluntarily relinquish the child for

1 adoption if an adoption agency is willing to accept the
2 relinquishment.

3 (h) The appropriateness of any relative placement pursuant to
4 Section 361.3. However, this consideration may not be cause for
5 continuance of the dispositional hearing.

6 (i) Whether the caregiver desires, and is willing, to provide legal
7 permanency for the child if reunification is unsuccessful.

8 (j) For an Indian child, in consultation with the Indian child's
9 tribe, whether tribal customary adoption is an appropriate
10 permanent plan for the child if reunification is unsuccessful.

11 (k) *Whether the child has been placed in an approved relative's*
12 *home under a voluntary placement agreement for a period not to*
13 *exceed 180 days, the parent or guardian is not interested in*
14 *additional family maintenance or family reunification services,*
15 *and the relative desires and is willing to be appointed the child's*
16 *legal guardian.*

17 ~~(k)~~

18 (l) This section shall become operative on January 1, 2014.

19 ~~SEC. 10.~~

20 *SEC. 11.* Section 360 of the Welfare and Institutions Code is
21 amended to read:

22 360. After receiving and considering the evidence on the proper
23 disposition of the case, the juvenile court may enter judgment as
24 follows:

25 (a) Notwithstanding any other provision of law, if the court
26 finds that the child is a person described by Section 300 and the
27 parent has advised the court that the parent is not interested in
28 family maintenance or family reunification services, it may, in
29 addition to or in lieu of adjudicating the child a dependent child
30 of the court, order a legal guardianship, appoint a legal guardian,
31 and issue letters of guardianship, if the court determines that a
32 guardianship is in the best interest of the child, provided the parent
33 and the child agree to the guardianship, unless the child's age or
34 physical, emotional, or mental condition prevents the child's
35 meaningful response. The court shall advise the parent and the
36 child that no reunification services will be provided as a result of
37 the establishment of a guardianship. The proceeding for the
38 appointment of a guardian shall be in the juvenile court.

39 Any application for termination of guardianship shall be filed
40 in juvenile court in a form as may be developed by the Judicial

1 Council pursuant to Section 68511 of the Government Code.
2 Sections 366.4 and 388 shall apply to this order of guardianship.
3 No person shall be appointed a legal guardian under this section
4 until an assessment as specified in subdivision (g) of Section 361.5
5 is read and considered by the court and reflected in the minutes of
6 the court.

7 If the court appoints an approved relative caregiver as the child's
8 legal guardian, the child has been in the care of that relative for a
9 period of six consecutive months under a voluntary placement
10 agreement, and the child otherwise meets the conditions for federal
11 financial participation, the child shall be eligible for aid under the
12 Kin-GAP Program as provided in Article 4.7 (commencing with
13 Section 11385) of Chapter 2. The nonfederally eligible child so
14 placed with an approved relative caregiver who is appointed as
15 the child's legal guardian shall be eligible for aid under the
16 state-funded Kin-GAP Program as provided for in Article 4.5
17 (commencing with Section 11360) of Chapter 2.

18 The person responsible for preparing the assessment may be
19 called and examined by any party to the guardianship proceeding.

20 (b) If the court finds that the child is a person described by
21 Section 300, it may, without adjudicating the child a dependent
22 child of the court, order that services be provided to keep the family
23 together and place the child and the child's parent or guardian
24 under the supervision of the social worker for a time period
25 consistent with Section 301.

26 (c) If the family subsequently is unable or unwilling to cooperate
27 with the services being provided, the social worker may file a
28 petition with the juvenile court pursuant to Section 332 alleging
29 that a previous petition has been sustained and that disposition
30 pursuant to subdivision (b) has been ineffective in ameliorating
31 the situation requiring the child welfare services. Upon hearing
32 the petition, the court shall order either that the petition shall be
33 dismissed or that a new disposition hearing shall be held pursuant
34 to subdivision (d).

35 (d) If the court finds that the child is a person described by
36 Section 300, it may order and adjudge the child to be a dependent
37 child of the court.

38 SEC. 12. Section 361.45 of the Welfare and Institutions Code
39 is amended to read:

1 361.45. (a) Notwithstanding any other provision of law, when
2 the sudden unavailability of a foster caregiver requires a change
3 in placement on an emergency basis for a child who is under the
4 jurisdiction of the juvenile court pursuant to Section 300, if an able
5 and willing relative, as defined in Section 319, or an able and
6 willing nonrelative extended family member, as defined in Section
7 362.7, is available and requests temporary placement of the child
8 pending resolution of the emergency situation, the county welfare
9 department shall initiate an assessment of the relative's or
10 nonrelative extended family member's suitability, which shall
11 include an in-home inspection to assess the safety of the home and
12 the ability of the relative or nonrelative extended family member
13 to care for the child's needs, and a consideration of the results of
14 a criminal records check conducted pursuant to Section 16504.5
15 and a check of allegations of prior child abuse or neglect
16 concerning the relative or nonrelative extended family member
17 and other adults in the home. Upon completion of this assessment,
18 the child may be placed in the assessed home. For purposes of this
19 paragraph, and except for the criminal records check conducted
20 pursuant to Section 16504.5, the standards used to determine
21 suitability shall be the same standards set forth in the regulations
22 for the licensing of foster family homes.

23 (b) Immediately following the placement of a child in the home
24 of a relative or a nonrelative extended family member, the county
25 welfare department shall evaluate and approve or deny the home
26 for purposes of AFDC-FC eligibility pursuant to Section 11402.
27 The standards used to evaluate and grant or deny approval of the
28 home of the relative and of the home of a nonrelative extended
29 family member, as described in Section 362.7, shall be the same
30 standards set forth in regulations for the licensing of foster family
31 homes which prescribe standards of safety and sanitation for the
32 physical plant and standards for basic personal care, supervision,
33 and services provided by the caregiver.

34 (c) If a relative or nonrelative extended family member, and
35 other adults in the home, as indicated, meets all other conditions
36 for approval, except for the receipt of the Federal Bureau of
37 Investigation's criminal history information for the relative or
38 nonrelative extended family member, the county welfare
39 department may approve the home and document that approval,
40 if the relative or nonrelative extended family member, and each

1 adult in the home, has signed and submitted a statement that he or
2 she has never been convicted of a crime in the United States, other
3 than a traffic infraction as defined in paragraph (1) of subdivision
4 (a) of Section 42001 of the Vehicle Code. If, after the approval
5 has been granted, the department determines that the relative or
6 nonrelative extended family member or other adult in the home
7 has a criminal record, the approval may be terminated.

8 (d) If a nonminor dependent, as defined in subdivision (v) of
9 Section 11400, is placed in the home of a relative or nonrelative
10 extended family member, the home shall be approved using the
11 same standards set forth in regulations as described in Section
12 1502.7 of the Health and Safety Code.

13 ~~SEC. 13. Section 361.5 of the Welfare and Institutions Code~~
14 ~~is amended to read:~~

15 ~~361.5. (a) Except as provided in subdivision (b), or when the~~
16 ~~parent has voluntarily relinquished the child and the relinquishment~~
17 ~~has been filed with the State Department of Social Services, or~~
18 ~~upon the establishment of an order of guardianship pursuant to~~
19 ~~Section 360, whenever a child is removed from a parent's or~~
20 ~~guardian's custody, the juvenile court shall order the social worker~~
21 ~~to provide child welfare services to the child and the child's mother~~
22 ~~and statutorily presumed father or guardians. Upon a finding and~~
23 ~~declaration of paternity by the juvenile court or proof of a prior~~
24 ~~declaration of paternity by any court of competent jurisdiction, the~~
25 ~~juvenile court may order services for the child and the biological~~
26 ~~father, if the court determines that the services will benefit the~~
27 ~~child.~~

28 ~~(1) Family reunification services, when provided, shall be~~
29 ~~provided as follows:~~

30 ~~(A) Except as otherwise provided in subparagraph (C), for a~~
31 ~~child who, on the date of initial removal from the physical custody~~
32 ~~of his or her parent or guardian, was three years of age or older,~~
33 ~~court-ordered services shall be provided during the period of time~~
34 ~~beginning with the dispositional hearing and ending with the date~~
35 ~~of the hearing set pursuant to subdivision (f) of Section 366.21,~~
36 ~~unless the child is returned to the home of the parent or guardian.~~

37 ~~(B) For a child who, on the date of initial removal from the~~
38 ~~physical custody of his or her parent or guardian, was under three~~
39 ~~years of age, court-ordered services shall be provided during the~~
40 ~~period of time beginning with the dispositional hearing and ending~~

1 with the date of the hearing set pursuant to subdivision (e) of
2 Section 366.21, unless the child is returned to the home of the
3 parent or guardian.

4 (C) For the purpose of placing and maintaining a sibling group
5 together in a permanent home should reunification efforts fail, for
6 a child in a sibling group whose members were removed from
7 parental custody at the same time, and in which one member of
8 the sibling group was under three years of age on the date of initial
9 removal from the physical custody of his or her parent or guardian,
10 court-ordered services to some or all of the sibling group may be
11 limited to a period of six months from the date the child entered
12 foster care. For the purposes of this paragraph, “a sibling group”
13 shall mean two or more children who are related to each other as
14 full or half siblings.

15 Regardless of the age of the child, a child shall be deemed to
16 have entered foster care on the earlier of the date of the
17 jurisdictional hearing held pursuant to Section 356 or the date that
18 is 60 days after the date on which the child was initially removed
19 from the physical custody of his or her parent or guardian.

20 Any motion to terminate court-ordered reunification services
21 prior to the hearing set pursuant to subdivision (f) of Section 366.21
22 for a child described by paragraph (1), or within six months of the
23 initial dispositional hearing for a child described by paragraph (2)
24 or this paragraph, shall be made pursuant to the requirements set
25 forth in subdivision (e) of Section 388.

26 (2) Notwithstanding subparagraphs (A), (B), and (C) of
27 paragraph (1), court-ordered services may be extended up to a
28 maximum time period not to exceed 18 months after the date the
29 child was originally removed from physical custody of his or her
30 parent or guardian if it can be shown, at the hearing held pursuant
31 to subdivision (f) of Section 366.21, that the permanent plan for
32 the child is that he or she will be returned and safely maintained
33 in the home within the extended time period. The court shall extend
34 the time period only if it finds that there is a substantial probability
35 that the child will be returned to the physical custody of his or her
36 parent or guardian within the extended time period or that
37 reasonable services have not been provided to the parent or
38 guardian. In determining whether court-ordered services may be
39 extended, the court shall consider the special circumstances of an
40 incarcerated or institutionalized parent or parents, or parent or

1 ~~parents court-ordered to a residential substance abuse treatment~~
2 ~~program, including, but not limited to, barriers to the parent's or~~
3 ~~guardian's access to services and ability to maintain contact with~~
4 ~~his or her child. The court shall also consider, among other factors,~~
5 ~~good faith efforts that the parent or guardian has made to maintain~~
6 ~~contact with the child. If the court extends the time period, the~~
7 ~~court shall specify the factual basis for its conclusion that there is~~
8 ~~a substantial probability that the child will be returned to the~~
9 ~~physical custody of his or her parent or guardian within the~~
10 ~~extended time period. The court also shall make findings pursuant~~
11 ~~to subdivision (a) of Section 366 and subdivision (c) of Section~~
12 ~~358.1.~~

13 ~~When counseling or other treatment services are ordered, the~~
14 ~~parent or guardian shall be ordered to participate in those services,~~
15 ~~unless the parent's or guardian's participation is deemed by the~~
16 ~~court to be inappropriate or potentially detrimental to the child, or~~
17 ~~unless a parent or guardian is incarcerated and the corrections~~
18 ~~facility in which he or she is incarcerated does not provide access~~
19 ~~to the treatment services ordered by the court. Physical custody of~~
20 ~~the child by the parents or guardians during the applicable time~~
21 ~~period under subparagraph (A), (B), or (C) of paragraph (1) shall~~
22 ~~not serve to interrupt the running of the period. If at the end of the~~
23 ~~applicable time period, a child cannot be safely returned to the~~
24 ~~care and custody of a parent or guardian without court supervision,~~
25 ~~but the child clearly desires contact with the parent or guardian,~~
26 ~~the court shall take the child's desire into account in devising a~~
27 ~~permanency plan.~~

28 ~~In cases where the child was under three years of age on the date~~
29 ~~of the initial removal from the physical custody of his or her parent~~
30 ~~or guardian or is a member of a sibling group as described in~~
31 ~~subparagraph (C) of paragraph (1), the court shall inform the parent~~
32 ~~or guardian that the failure of the parent or guardian to participate~~
33 ~~regularly in any court-ordered treatment programs or to cooperate~~
34 ~~or avail himself or herself of services provided as part of the child~~
35 ~~welfare services case plan may result in a termination of efforts~~
36 ~~to reunify the family after six months. The court shall inform the~~
37 ~~parent or guardian of the factors used in subdivision (c) of Section~~
38 ~~366.21 to determine whether to limit services to six months for~~
39 ~~some or all members of a sibling group as described in~~
40 ~~subparagraph (C) of paragraph (1).~~

1 ~~(3) Notwithstanding paragraph (2), court-ordered services may~~
2 ~~be extended up to a maximum time period not to exceed 24 months~~
3 ~~after the date the child was originally removed from physical~~
4 ~~custody of his or her parent or guardian if it is shown, at the hearing~~
5 ~~held pursuant to subdivision (b) of Section 366.22, that the~~
6 ~~permanent plan for the child is that he or she will be returned and~~
7 ~~safely maintained in the home within the extended time period.~~
8 ~~The court shall extend the time period only if it finds that it is in~~
9 ~~the child's best interest to have the time period extended and that~~
10 ~~there is a substantial probability that the child will be returned to~~
11 ~~the physical custody of his or her parent or guardian who is~~
12 ~~described in subdivision (b) of Section 366.22 within the extended~~
13 ~~time period, or that reasonable services have not been provided to~~
14 ~~the parent or guardian. If the court extends the time period, the~~
15 ~~court shall specify the factual basis for its conclusion that there is~~
16 ~~a substantial probability that the child will be returned to the~~
17 ~~physical custody of his or her parent or guardian within the~~
18 ~~extended time period. The court also shall make findings pursuant~~
19 ~~to subdivision (a) of Section 366 and subdivision (c) of Section~~
20 ~~358.1.~~

21 ~~When counseling or other treatment services are ordered, the~~
22 ~~parent or guardian shall be ordered to participate in those services,~~
23 ~~in order for substantial probability to be found. Physical custody~~
24 ~~of the child by the parents or guardians during the applicable time~~
25 ~~period under subparagraph (A), (B), or (C) of paragraph (1) shall~~
26 ~~not serve to interrupt the running of the period. If at the end of the~~
27 ~~applicable time period, the child cannot be safely returned to the~~
28 ~~care and custody of a parent or guardian without court supervision,~~
29 ~~but the child clearly desires contact with the parent or guardian,~~
30 ~~the court shall take the child's desire into account in devising a~~
31 ~~permanency plan.~~

32 ~~Except in cases where, pursuant to subdivision (b), the court~~
33 ~~does not order reunification services, the court shall inform the~~
34 ~~parent or parents of Section 366.26 and shall specify that the~~
35 ~~parent's or parents' parental rights may be terminated.~~

36 ~~(b) Reunification services need not be provided to a parent or~~
37 ~~guardian described in this subdivision when the court finds, by~~
38 ~~clear and convincing evidence, any of the following:~~

39 ~~(1) That the whereabouts of the parent or guardian is unknown.~~
40 ~~A finding pursuant to this paragraph shall be supported by an~~

1 affidavit or by proof that a reasonably diligent search has failed
2 to locate the parent or guardian. The posting or publication of
3 notices is not required in that search.

4 (2) That the parent or guardian is suffering from a mental
5 disability that is described in Chapter 2 (commencing with Section
6 7820) of Part 4 of Division 12 of the Family Code and that renders
7 him or her incapable of utilizing those services.

8 (3) That the child or a sibling of the child has been previously
9 adjudicated a dependent pursuant to any subdivision of Section
10 300 as a result of physical or sexual abuse, that following that
11 adjudication the child had been removed from the custody of his
12 or her parent or guardian pursuant to Section 361, that the child
13 has been returned to the custody of the parent or guardian from
14 whom the child had been taken originally, and that the child is
15 being removed pursuant to Section 361, due to additional physical
16 or sexual abuse.

17 (4) That the parent or guardian of the child has caused the death
18 of another child through abuse or neglect.

19 (5) That the child was brought within the jurisdiction of the
20 court under subdivision (c) of Section 300 because of the conduct
21 of that parent or guardian.

22 (6) That the child has been adjudicated a dependent pursuant
23 to any subdivision of Section 300 as a result of severe sexual abuse
24 or the infliction of severe physical harm to the child, a sibling, or
25 a half sibling by a parent or guardian, as defined in this subdivision,
26 and the court makes a factual finding that it would not benefit the
27 child to pursue reunification services with the offending parent or
28 guardian.

29 A finding of severe sexual abuse, for the purposes of this
30 subdivision, may be based on, but is not limited to, sexual
31 intercourse, or stimulation involving genital-genital, oral-genital,
32 anal-genital, or oral-anal contact, whether between the parent or
33 guardian and the child or a sibling or half sibling of the child, or
34 between the child or a sibling or half sibling of the child and
35 another person or animal with the actual or implied consent of the
36 parent or guardian; or the penetration or manipulation of the
37 child's, sibling's, or half sibling's genital organs or rectum by any
38 animate or inanimate object for the sexual gratification of the
39 parent or guardian, or for the sexual gratification of another person
40 with the actual or implied consent of the parent or guardian.

1 ~~A finding of the infliction of severe physical harm, for the~~
2 ~~purposes of this subdivision, may be based on, but is not limited~~
3 ~~to, deliberate and serious injury inflicted to or on a child's body~~
4 ~~or the body of a sibling or half sibling of the child by an act or~~
5 ~~omission of the parent or guardian, or of another individual or~~
6 ~~animal with the consent of the parent or guardian; deliberate and~~
7 ~~torturous confinement of the child, sibling, or half sibling in a~~
8 ~~closed space; or any other torturous act or omission that would be~~
9 ~~reasonably understood to cause serious emotional damage.~~

10 ~~(7) That the parent is not receiving reunification services for a~~
11 ~~sibling or a half sibling of the child pursuant to paragraph (3), (5),~~
12 ~~or (6).~~

13 ~~(8) That the child was conceived by means of the commission~~
14 ~~of an offense listed in Section 288 or 288.5 of the Penal Code, or~~
15 ~~by an act committed outside of this state that, if committed in this~~
16 ~~state, would constitute one of those offenses. This paragraph only~~
17 ~~applies to the parent who committed the offense or act.~~

18 ~~(9) That the child has been found to be a child described in~~
19 ~~subdivision (g) of Section 300, that the parent or guardian of the~~
20 ~~child willfully abandoned the child, and the court finds that the~~
21 ~~abandonment itself constituted a serious danger to the child; or~~
22 ~~that the parent or other person having custody of the child~~
23 ~~voluntarily surrendered physical custody of the child pursuant to~~
24 ~~Section 1255.7 of the Health and Safety Code. For the purposes~~
25 ~~of this paragraph, "serious danger" means that without the~~
26 ~~intervention of another person or agency, the child would have~~
27 ~~sustained severe or permanent disability, injury, illness, or death.~~
28 ~~For purposes of this paragraph, "willful abandonment" shall not~~
29 ~~be construed as actions taken in good faith by the parent without~~
30 ~~the intent of placing the child in serious danger.~~

31 ~~(10) That the court ordered termination of reunification services~~
32 ~~for any siblings or half siblings of the child because the parent or~~
33 ~~guardian failed to reunify with the sibling or half sibling after the~~
34 ~~sibling or half sibling had been removed from that parent or~~
35 ~~guardian pursuant to Section 361 and that parent or guardian is~~
36 ~~the same parent or guardian described in subdivision (a) and that,~~
37 ~~according to the findings of the court, this parent or guardian has~~
38 ~~not subsequently made a reasonable effort to treat the problems~~
39 ~~that led to removal of the sibling or half sibling of that child from~~
40 ~~that parent or guardian.~~

1 ~~(11) That the parental rights of a parent over any sibling or half~~
2 ~~sibling of the child had been permanently severed, and this parent~~
3 ~~is the same parent described in subdivision (a), and that, according~~
4 ~~to the findings of the court, this parent has not subsequently made~~
5 ~~a reasonable effort to treat the problems that led to removal of the~~
6 ~~sibling or half sibling of that child from the parent.~~

7 ~~(12) That the parent or guardian of the child has been convicted~~
8 ~~of a violent felony, as defined in subdivision (c) of Section 667.5~~
9 ~~of the Penal Code.~~

10 ~~(13) That the parent or guardian of the child has a history of~~
11 ~~extensive, abusive, and chronic use of drugs or alcohol and has~~
12 ~~resisted prior court-ordered treatment for this problem during a~~
13 ~~three-year period immediately prior to the filing of the petition~~
14 ~~that brought that child to the court's attention, or has failed or~~
15 ~~refused to comply with a program of drug or alcohol treatment~~
16 ~~described in the case plan required by Section 358.1 on at least~~
17 ~~two prior occasions, even though the programs identified were~~
18 ~~available and accessible.~~

19 ~~(14) That the parent or guardian of the child has advised the~~
20 ~~court that he or she is not interested in receiving family~~
21 ~~maintenance or family reunification services or having the child~~
22 ~~returned to or placed in his or her custody and does not wish to~~
23 ~~receive family maintenance or reunification services.~~

24 ~~The parent or guardian shall be represented by counsel and shall~~
25 ~~execute a waiver of services form to be adopted by the Judicial~~
26 ~~Council. The court shall advise the parent or guardian of any right~~
27 ~~to services and of the possible consequences of a waiver of~~
28 ~~services, including the termination of parental rights and placement~~
29 ~~of the child for adoption. The court shall not accept the waiver of~~
30 ~~services unless it states on the record its finding that the parent or~~
31 ~~guardian has knowingly and intelligently waived the right to~~
32 ~~services.~~

33 ~~(15) That the parent or guardian has on one or more occasions~~
34 ~~willfully abducted the child or child's sibling or half sibling from~~
35 ~~his or her placement and refused to disclose the child's or child's~~
36 ~~sibling's or half sibling's whereabouts, refused to return physical~~
37 ~~custody of the child or child's sibling or half sibling to his or her~~
38 ~~placement, or refused to return physical custody of the child or~~
39 ~~child's sibling or half sibling to the social worker.~~

1 ~~(e) In deciding whether to order reunification in any case in~~
2 ~~which this section applies, the court shall hold a dispositional~~
3 ~~hearing. The social worker shall prepare a report that discusses~~
4 ~~whether reunification services shall be provided. When it is alleged,~~
5 ~~pursuant to paragraph (2) of subdivision (b), that the parent is~~
6 ~~incapable of utilizing services due to mental disability, the court~~
7 ~~shall order reunification services unless competent evidence from~~
8 ~~mental health professionals establishes that, even with the provision~~
9 ~~of services, the parent is unlikely to be capable of adequately caring~~
10 ~~for the child within the time limits specified in subdivision (a).~~

11 ~~The court shall not order reunification for a parent or guardian~~
12 ~~described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),~~
13 ~~(13), (14), or (15) of subdivision (b) unless the court finds, by clear~~
14 ~~and convincing evidence, that reunification is in the best interest~~
15 ~~of the child.~~

16 ~~In addition, the court shall not order reunification in any situation~~
17 ~~described in paragraph (5) of subdivision (b) unless it finds that,~~
18 ~~based on competent testimony, those services are likely to prevent~~
19 ~~reabuse or continued neglect of the child or that failure to try~~
20 ~~reunification will be detrimental to the child because the child is~~
21 ~~closely and positively attached to that parent. The social worker~~
22 ~~shall investigate the circumstances leading to the removal of the~~
23 ~~child and advise the court whether there are circumstances that~~
24 ~~indicate that reunification is likely to be successful or unsuccessful~~
25 ~~and whether failure to order reunification is likely to be detrimental~~
26 ~~to the child.~~

27 ~~The failure of the parent to respond to previous services, the fact~~
28 ~~that the child was abused while the parent was under the influence~~
29 ~~of drugs or alcohol, a past history of violent behavior, or testimony~~
30 ~~by a competent professional that the parent's behavior is unlikely~~
31 ~~to be changed by services are among the factors indicating that~~
32 ~~reunification services are unlikely to be successful. The fact that~~
33 ~~a parent or guardian is no longer living with an individual who~~
34 ~~severely abused the child may be considered in deciding that~~
35 ~~reunification services are likely to be successful, provided that the~~
36 ~~court shall consider any pattern of behavior on the part of the parent~~
37 ~~that has exposed the child to repeated abuse.~~

38 ~~(d) If reunification services are not ordered pursuant to~~
39 ~~paragraph (1) of subdivision (b) and the whereabouts of a parent~~
40 ~~become known within six months of the out-of-home placement~~

1 of the child, the court shall order the social worker to provide
2 family reunification services in accordance with this subdivision.

3 (e) (1) If the parent or guardian is incarcerated or
4 institutionalized, the court shall order reasonable services unless
5 the court determines, by clear and convincing evidence, those
6 services would be detrimental to the child. In determining
7 detriment, the court shall consider the age of the child, the degree
8 of parent-child bonding, the length of the sentence, the length and
9 nature of the treatment, the nature of the crime or illness, the degree
10 of detriment to the child if services are not offered and, for children
11 10 years of age or older, the child's attitude toward the
12 implementation of family reunification services, the likelihood of
13 the parent's discharge from incarceration or institutionalization
14 within the reunification time limitations described in subdivision
15 (a), and any other appropriate factors. In determining the content
16 of reasonable services, the court shall consider the particular
17 barriers to an incarcerated or otherwise institutionalized parent's
18 access to those court-mandated services and ability to maintain
19 contact with his or her child, and shall document this information
20 in the child's case plan. Reunification services are subject to the
21 applicable time limitations imposed in subdivision (a). Services
22 may include, but shall not be limited to, all of the following:

23 (A) Maintaining contact between the parent and child through
24 collect telephone calls.

25 (B) Transportation services, where appropriate.

26 (C) Visitation services, where appropriate.

27 (D) Reasonable services to extended family members or foster
28 parents providing care for the child if the services are not
29 detrimental to the child.

30 An incarcerated parent may be required to attend counseling,
31 parenting classes, or vocational training programs as part of the
32 reunification service plan if actual access to these services is
33 provided. The social worker shall document in the child's case
34 plan the particular barriers to an incarcerated or institutionalized
35 parent's access to those court-mandated services and ability to
36 maintain contact with his or her child.

37 (2) The presiding judge of the juvenile court of each county
38 may convene representatives of the county welfare department,
39 the sheriff's department, and other appropriate entities for the
40 purpose of developing and entering into protocols for ensuring the

1 notification, transportation, and presence of an incarcerated or
2 institutionalized parent at all court hearings involving proceedings
3 affecting the child pursuant to Section 2625 of the Penal Code.
4 The county welfare department shall utilize the prisoner locator
5 system developed by the Department of Corrections and
6 Rehabilitation to facilitate timely and effective notice of hearings
7 for incarcerated parents.

8 (3) Notwithstanding any other provision of law, if the
9 incarcerated parent is a woman seeking to participate in the
10 community treatment program operated by the Department of
11 Corrections and Rehabilitation pursuant to Chapter 4.8
12 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
13 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
14 Code, the court shall determine whether the parent's participation
15 in a program is in the child's best interest and whether it is suitable
16 to meet the needs of the parent and child.

17 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
18 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
19 paragraph (1) of subdivision (c), does not order reunification
20 services, it shall, at the dispositional hearing, that shall include a
21 permanency hearing, determine if a hearing under Section 366.26
22 shall be set in order to determine whether adoption, guardianship,
23 or long-term foster care is the most appropriate plan for the child,
24 and shall consider in-state and out-of-state placement options. If
25 the court so determines, it shall conduct the hearing pursuant to
26 Section 366.26 within 120 days after the dispositional hearing.
27 However, the court shall not schedule a hearing so long as the
28 other parent is being provided reunification services pursuant to
29 subdivision (a). The court may continue to permit the parent to
30 visit the child unless it finds that visitation would be detrimental
31 to the child.

32 (g) (1) Whenever a court orders that a hearing shall be held
33 pursuant to Section 366.26, it shall direct the agency supervising
34 the child and the licensed county adoption agency, or the State
35 Department of Social Services when it is acting as an adoption
36 agency in counties that are not served by a county adoption agency,
37 to prepare an assessment that shall include:

38 (A) Current search efforts for an absent parent or parents and
39 notification of a noncustodial parent in the manner provided for
40 in Section 291.

1 ~~(B) A review of the amount of and nature of any contact between~~
2 ~~the child and his or her parents and other members of his or her~~
3 ~~extended family since the time of placement. Although the~~
4 ~~extended family of each child shall be reviewed on a case-by-case~~
5 ~~basis, “extended family” for the purpose of this subparagraph shall~~
6 ~~include, but not be limited to, the child’s siblings, grandparents,~~
7 ~~aunts, and uncles.~~

8 ~~(C) An evaluation of the child’s medical, developmental,~~
9 ~~scholastic, mental, and emotional status.~~

10 ~~(D) A preliminary assessment of the eligibility and commitment~~
11 ~~of any identified prospective adoptive parent or guardian,~~
12 ~~particularly the caretaker, to include a social history, including~~
13 ~~screening for criminal records and prior referrals for child abuse~~
14 ~~or neglect, the capability to meet the child’s needs, and the~~
15 ~~understanding of the legal and financial rights and responsibilities~~
16 ~~of adoption and guardianship. If a proposed guardian is a relative~~
17 ~~of the minor, the assessment shall also consider, but need not be~~
18 ~~limited to, all of the factors specified in subdivision (a) of Section~~
19 ~~361.3 and in Section 361.4. As used in this subparagraph, “relative”~~
20 ~~means an adult who is related to the minor by blood, adoption, or~~
21 ~~affinity within the fifth degree of kinship, including stepparents,~~
22 ~~stepsiblings, and all relatives whose status is preceded by the words~~
23 ~~“great,” “great-great,” or “grand,” or the spouse of any of those~~
24 ~~persons even if the marriage was terminated by death or~~
25 ~~dissolution.~~

26 ~~(E) The relationship of the child to any identified prospective~~
27 ~~adoptive parent or guardian, the duration and character of the~~
28 ~~relationship, the degree of attachment of the child to the prospective~~
29 ~~relative guardian or adoptive parent, the relative’s or adoptive~~
30 ~~parent’s strong commitment to caring permanently for the child,~~
31 ~~the motivation for seeking adoption or guardianship, a statement~~
32 ~~from the child concerning placement and the adoption or~~
33 ~~guardianship, and whether the child over 12 years of age has been~~
34 ~~consulted about the proposed relative guardianship arrangements,~~
35 ~~unless the child’s age or physical, emotional, or other condition~~
36 ~~precludes his or her meaningful response, and if so, a description~~
37 ~~of the condition.~~

38 ~~(F) An analysis of the likelihood that the child will be adopted~~
39 ~~if parental rights are terminated.~~

1 ~~(2) (A) A relative caregiver's preference for legal guardianship~~
2 ~~over adoption, if it is due to circumstances that do not include an~~
3 ~~unwillingness to accept legal or financial responsibility for the~~
4 ~~child, shall not constitute the sole basis for recommending removal~~
5 ~~of the child from the relative caregiver for purposes of adoptive~~
6 ~~placement.~~

7 ~~(B) A relative caregiver shall be given information regarding~~
8 ~~the permanency options of guardianship and adoption, including~~
9 ~~the long-term benefits and consequences of each option, prior to~~
10 ~~establishing legal guardianship or pursuing adoption.~~

11 ~~(h) If, at any hearing held pursuant to Section 366.26, a~~
12 ~~guardianship is established for the minor with an approved relative~~
13 ~~caregiver and juvenile court dependency is subsequently dismissed,~~
14 ~~the minor shall be eligible for aid under the Kin-GAP Program as~~
15 ~~provided for in Article 4.5 (commencing with Section 11360) or~~
16 ~~Article 4.7 (commencing with Section 11385) of Chapter 2, as~~
17 ~~applicable.~~

18 ~~(i) In determining whether reunification services will benefit~~
19 ~~the child pursuant to paragraph (6) or (7) of subdivision (b), the~~
20 ~~court shall consider any information it deems relevant, including~~
21 ~~the following factors:~~

22 ~~(1) The specific act or omission comprising the severe sexual~~
23 ~~abuse or the severe physical harm inflicted on the child or the~~
24 ~~child's sibling or half sibling.~~

25 ~~(2) The circumstances under which the abuse or harm was~~
26 ~~inflicted on the child or the child's sibling or half sibling.~~

27 ~~(3) The severity of the emotional trauma suffered by the child~~
28 ~~or the child's sibling or half sibling.~~

29 ~~(4) Any history of abuse of other children by the offending~~
30 ~~parent or guardian.~~

31 ~~(5) The likelihood that the child may be safely returned to the~~
32 ~~care of the offending parent or guardian within 12 months with no~~
33 ~~continuing supervision.~~

34 ~~(6) Whether or not the child desires to be reunified with the~~
35 ~~offending parent or guardian.~~

36 ~~(j) The court shall read into the record the basis for a finding of~~
37 ~~severe sexual abuse or the infliction of severe physical harm under~~
38 ~~paragraph (6) of subdivision (b), and shall also specify the factual~~
39 ~~findings used to determine that the provision of reunification~~

1 ~~services to the offending parent or guardian would not benefit the~~
2 ~~child.~~

3 *SEC. 13. Section 361.5 of the Welfare and Institutions Code,*
4 *as amended by Section 6 of Chapter 287 of the Statutes of 2009,*
5 *is amended to read:*

6 361.5. (a) Except as provided in subdivision (b), or when the
7 parent has voluntarily relinquished the child and the relinquishment
8 has been filed with the State Department of Social Services, or
9 upon the establishment of an order of guardianship pursuant to
10 Section 360, whenever a child is removed from a parent's or
11 guardian's custody, the juvenile court shall order the social worker
12 to provide child welfare services to the child and the child's mother
13 and statutorily presumed father or guardians. Upon a finding and
14 declaration of paternity by the juvenile court or proof of a prior
15 declaration of paternity by any court of competent jurisdiction, the
16 juvenile court may order services for the child and the biological
17 father, if the court determines that the services will benefit the
18 child.

19 (1) Family reunification services, when provided, shall be
20 provided as follows:

21 (A) Except as otherwise provided in subparagraph (C), for a
22 child who, on the date of initial removal from the physical custody
23 of his or her parent or guardian, was three years of age or older,
24 court-ordered services shall be provided beginning with the
25 dispositional hearing and ending 12 months after the date the child
26 entered foster care as defined in Section 361.49, unless the child
27 is returned to the home of the parent or guardian.

28 (B) For a child who, on the date of initial removal from the
29 physical custody of his or her parent or guardian, was under three
30 years of age, court-ordered services shall be provided for a period
31 of six months from the dispositional hearing as provided in
32 subdivision (e) of Section 366.21, but no longer than 12 months
33 from the date the child entered foster care as defined in Section
34 361.49 unless the child is returned to the home of the parent or
35 guardian.

36 (C) For the purpose of placing and maintaining a sibling group
37 together in a permanent home should reunification efforts fail, for
38 a child in a sibling group whose members were removed from
39 parental custody at the same time, and in which one member of
40 the sibling group was under three years of age on the date of initial

1 removal from the physical custody of his or her parent or guardian,
2 court-ordered services for some or all of the sibling group may be
3 limited as set forth in subparagraph (B). For the purposes of this
4 paragraph, “a sibling group” shall mean two or more children who
5 are related to each other as full or half siblings.

6 (2) Any motion to terminate court-ordered reunification services
7 prior to the hearing set pursuant to subdivision (f) of Section 366.21
8 for a child described by subparagraph (A) of paragraph (1), or
9 prior to the hearing set pursuant to subdivision (e) of Section
10 366.21 for a child described by subparagraph (B) or (C) of
11 paragraph (1), shall be made pursuant to the requirements set forth
12 in subdivision (c) of Section 388. A motion to terminate
13 court-ordered reunification services shall not be required at the
14 hearing set pursuant to subdivision (e) of Section 366.21 if the
15 court finds by clear and convincing evidence one of the following:

16 (A) That the child was removed initially under subdivision (g)
17 of Section 300 and the whereabouts of the parent are still unknown.

18 (B) That the parent has failed to contact and visit the child.

19 (C) That the parent has been convicted of a felony indicating
20 parental unfitness.

21 (3) Notwithstanding subparagraphs (A), (B), and (C) of
22 paragraph (1), court-ordered services may be extended up to a
23 maximum time period not to exceed 18 months after the date the
24 child was originally removed from physical custody of his or her
25 parent or guardian if it can be shown, at the hearing held pursuant
26 to subdivision (f) of Section 366.21, that the permanent plan for
27 the child is that he or she will be returned and safely maintained
28 in the home within the extended time period. The court shall extend
29 the time period only if it finds that there is a substantial probability
30 that the child will be returned to the physical custody of his or her
31 parent or guardian within the extended time period or that
32 reasonable services have not been provided to the parent or
33 guardian. In determining whether court-ordered services may be
34 extended, the court shall consider the special circumstances of an
35 incarcerated or institutionalized parent or parents, or parent or
36 parents court-ordered to a residential substance abuse treatment
37 program, including, but not limited to, barriers to the parent’s or
38 guardian’s access to services and ability to maintain contact with
39 his or her child. The court shall also consider, among other factors,
40 good faith efforts that the parent or guardian has made to maintain

1 contact with the child. If the court extends the time period, the
2 court shall specify the factual basis for its conclusion that there is
3 a substantial probability that the child will be returned to the
4 physical custody of his or her parent or guardian within the
5 extended time period. The court also shall make findings pursuant
6 to subdivision (a) of Section 366 and subdivision (e) of Section
7 358.1.

8 When counseling or other treatment services are ordered, the
9 parent or guardian shall be ordered to participate in those services,
10 unless the parent's or guardian's participation is deemed by the
11 court to be inappropriate or potentially detrimental to the child, or
12 unless a parent or guardian is incarcerated and the corrections
13 facility in which he or she is incarcerated does not provide access
14 to the treatment services ordered by the court. Physical custody of
15 the child by the parents or guardians during the applicable time
16 period under subparagraph (A), (B), or (C) of paragraph (1) shall
17 not serve to interrupt the running of the period. If at the end of the
18 applicable time period, a child cannot be safely returned to the
19 care and custody of a parent or guardian without court supervision,
20 but the child clearly desires contact with the parent or guardian,
21 the court shall take the child's desire into account in devising a
22 permanency plan.

23 In cases where the child was under three years of age on the date
24 of the initial removal from the physical custody of his or her parent
25 or guardian or is a member of a sibling group as described in
26 subparagraph (C) of paragraph (1), the court shall inform the parent
27 or guardian that the failure of the parent or guardian to participate
28 regularly in any court-ordered treatment programs or to cooperate
29 or avail himself or herself of services provided as part of the child
30 welfare services case plan may result in a termination of efforts
31 to reunify the family after six months. The court shall inform the
32 parent or guardian of the factors used in subdivision (e) of Section
33 366.21 to determine whether to limit services to six months for
34 some or all members of a sibling group as described in
35 subparagraph (C) of paragraph (1).

36 (4) Notwithstanding paragraph (3), court-ordered services may
37 be extended up to a maximum time period not to exceed 24 months
38 after the date the child was originally removed from physical
39 custody of his or her parent or guardian if it is shown, at the hearing
40 held pursuant to subdivision (b) of Section 366.22, that the

1 permanent plan for the child is that he or she will be returned and
2 safely maintained in the home within the extended time period.
3 The court shall extend the time period only if it finds that it is in
4 the child's best interest to have the time period extended and that
5 there is a substantial probability that the child will be returned to
6 the physical custody of his or her parent or guardian who is
7 described in subdivision (b) of Section 366.22 within the extended
8 time period, or that reasonable services have not been provided to
9 the parent or guardian. If the court extends the time period, the
10 court shall specify the factual basis for its conclusion that there is
11 a substantial probability that the child will be returned to the
12 physical custody of his or her parent or guardian within the
13 extended time period. The court also shall make findings pursuant
14 to subdivision (a) of Section 366 and subdivision (e) of Section
15 358.1.

16 When counseling or other treatment services are ordered, the
17 parent or guardian shall be ordered to participate in those services,
18 in order for substantial probability to be found. Physical custody
19 of the child by the parents or guardians during the applicable time
20 period under subparagraph (A), (B), or (C) of paragraph (1) shall
21 not serve to interrupt the running of the period. If at the end of the
22 applicable time period, the child cannot be safely returned to the
23 care and custody of a parent or guardian without court supervision,
24 but the child clearly desires contact with the parent or guardian,
25 the court shall take the child's desire into account in devising a
26 permanency plan.

27 Except in cases where, pursuant to subdivision (b), the court
28 does not order reunification services, the court shall inform the
29 parent or parents of Section 366.26 and shall specify that the
30 parent's or parents' parental rights may be terminated.

31 (b) Reunification services need not be provided to a parent or
32 guardian described in this subdivision when the court finds, by
33 clear and convincing evidence, any of the following:

34 (1) That the whereabouts of the parent or guardian is unknown.
35 A finding pursuant to this paragraph shall be supported by an
36 affidavit or by proof that a reasonably diligent search has failed
37 to locate the parent or guardian. The posting or publication of
38 notices is not required in that search.

39 (2) That the parent or guardian is suffering from a mental
40 disability that is described in Chapter 2 (commencing with Section

1 7820) of Part 4 of Division 12 of the Family Code and that renders
2 him or her incapable of utilizing those services.

3 (3) That the child or a sibling of the child has been previously
4 adjudicated a dependent pursuant to any subdivision of Section
5 300 as a result of physical or sexual abuse, that following that
6 adjudication the child had been removed from the custody of his
7 or her parent or guardian pursuant to Section 361, that the child
8 has been returned to the custody of the parent or guardian from
9 whom the child had been taken originally, and that the child is
10 being removed pursuant to Section 361, due to additional physical
11 or sexual abuse.

12 (4) That the parent or guardian of the child has caused the death
13 of another child through abuse or neglect.

14 (5) That the child was brought within the jurisdiction of the
15 court under subdivision (e) of Section 300 because of the conduct
16 of that parent or guardian.

17 (6) That the child has been adjudicated a dependent pursuant
18 to any subdivision of Section 300 as a result of severe sexual abuse
19 or the infliction of severe physical harm to the child, a sibling, or
20 a half sibling by a parent or guardian, as defined in this subdivision,
21 and the court makes a factual finding that it would not benefit the
22 child to pursue reunification services with the offending parent or
23 guardian.

24 A finding of severe sexual abuse, for the purposes of this
25 subdivision, may be based on, but is not limited to, sexual
26 intercourse, or stimulation involving genital-genital, oral-genital,
27 anal-genital, or oral-anal contact, whether between the parent or
28 guardian and the child or a sibling or half sibling of the child, or
29 between the child or a sibling or half sibling of the child and
30 another person or animal with the actual or implied consent of the
31 parent or guardian; or the penetration or manipulation of the
32 child's, sibling's, or half sibling's genital organs or rectum by any
33 animate or inanimate object for the sexual gratification of the
34 parent or guardian, or for the sexual gratification of another person
35 with the actual or implied consent of the parent or guardian.

36 A finding of the infliction of severe physical harm, for the
37 purposes of this subdivision, may be based on, but is not limited
38 to, deliberate and serious injury inflicted to or on a child's body
39 or the body of a sibling or half sibling of the child by an act or
40 omission of the parent or guardian, or of another individual or

1 animal with the consent of the parent or guardian; deliberate and
2 torturous confinement of the child, sibling, or half sibling in a
3 closed space; or any other torturous act or omission that would be
4 reasonably understood to cause serious emotional damage.

5 (7) That the parent is not receiving reunification services for a
6 sibling or a half sibling of the child pursuant to paragraph (3), (5),
7 or (6).

8 (8) That the child was conceived by means of the commission
9 of an offense listed in Section 288 or 288.5 of the Penal Code, or
10 by an act committed outside of this state that, if committed in this
11 state, would constitute one of those offenses. This paragraph only
12 applies to the parent who committed the offense or act.

13 (9) That the child has been found to be a child described in
14 subdivision (g) of Section 300, that the parent or guardian of the
15 child willfully abandoned the child, and the court finds that the
16 abandonment itself constituted a serious danger to the child; or
17 that the parent or other person having custody of the child
18 voluntarily surrendered physical custody of the child pursuant to
19 Section 1255.7 of the Health and Safety Code. For the purposes
20 of this paragraph, “serious danger” means that without the
21 intervention of another person or agency, the child would have
22 sustained severe or permanent disability, injury, illness, or death.
23 For purposes of this paragraph, “willful abandonment” shall not
24 be construed as actions taken in good faith by the parent without
25 the intent of placing the child in serious danger.

26 (10) That the court ordered termination of reunification services
27 for any siblings or half siblings of the child because the parent or
28 guardian failed to reunify with the sibling or half sibling after the
29 sibling or half sibling had been removed from that parent or
30 guardian pursuant to Section 361 and that parent or guardian is
31 the same parent or guardian described in subdivision (a) and that,
32 according to the findings of the court, this parent or guardian has
33 not subsequently made a reasonable effort to treat the problems
34 that led to removal of the sibling or half sibling of that child from
35 that parent or guardian.

36 (11) That the parental rights of a parent over any sibling or half
37 sibling of the child had been permanently severed, and this parent
38 is the same parent described in subdivision (a), and that, according
39 to the findings of the court, this parent has not subsequently made

1 a reasonable effort to treat the problems that led to removal of the
2 sibling or half sibling of that child from the parent.

3 (12) That the parent or guardian of the child has been convicted
4 of a violent felony, as defined in subdivision (c) of Section 667.5
5 of the Penal Code.

6 (13) That the parent or guardian of the child has a history of
7 extensive, abusive, and chronic use of drugs or alcohol and has
8 resisted prior court-ordered treatment for this problem during a
9 three-year period immediately prior to the filing of the petition
10 that brought that child to the court's attention, or has failed or
11 refused to comply with a program of drug or alcohol treatment
12 described in the case plan required by Section 358.1 on at least
13 two prior occasions, even though the programs identified were
14 available and accessible.

15 (14) That the parent or guardian of the child has advised the
16 court that he or she is not interested in receiving family
17 maintenance or family reunification services or having the child
18 returned to or placed in his or her custody and does not wish to
19 receive family maintenance or reunification services.

20 The parent or guardian shall be represented by counsel and shall
21 execute a waiver of services form to be adopted by the Judicial
22 Council. The court shall advise the parent or guardian of any right
23 to services and of the possible consequences of a waiver of
24 services, including the termination of parental rights and placement
25 of the child for adoption. The court shall not accept the waiver of
26 services unless it states on the record its finding that the parent or
27 guardian has knowingly and intelligently waived the right to
28 services.

29 (15) That the parent or guardian has on one or more occasions
30 willfully abducted the child or child's sibling or half sibling from
31 his or her placement and refused to disclose the child's or child's
32 sibling's or half sibling's whereabouts, refused to return physical
33 custody of the child or child's sibling or half sibling to his or her
34 placement, or refused to return physical custody of the child or
35 child's sibling or half sibling to the social worker.

36 (c) In deciding whether to order reunification in any case in
37 which this section applies, the court shall hold a dispositional
38 hearing. The social worker shall prepare a report that discusses
39 whether reunification services shall be provided. When it is alleged,
40 pursuant to paragraph (2) of subdivision (b), that the parent is

1 incapable of utilizing services due to mental disability, the court
2 shall order reunification services unless competent evidence from
3 mental health professionals establishes that, even with the provision
4 of services, the parent is unlikely to be capable of adequately caring
5 for the child within the time limits specified in subdivision (a).

6 The court shall not order reunification for a parent or guardian
7 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
8 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
9 and convincing evidence, that reunification is in the best interest
10 of the child.

11 In addition, the court shall not order reunification in any situation
12 described in paragraph (5) of subdivision (b) unless it finds that,
13 based on competent testimony, those services are likely to prevent
14 reabuse or continued neglect of the child or that failure to try
15 reunification will be detrimental to the child because the child is
16 closely and positively attached to that parent. The social worker
17 shall investigate the circumstances leading to the removal of the
18 child and advise the court whether there are circumstances that
19 indicate that reunification is likely to be successful or unsuccessful
20 and whether failure to order reunification is likely to be detrimental
21 to the child.

22 The failure of the parent to respond to previous services, the fact
23 that the child was abused while the parent was under the influence
24 of drugs or alcohol, a past history of violent behavior, or testimony
25 by a competent professional that the parent's behavior is unlikely
26 to be changed by services are among the factors indicating that
27 reunification services are unlikely to be successful. The fact that
28 a parent or guardian is no longer living with an individual who
29 severely abused the child may be considered in deciding that
30 reunification services are likely to be successful, provided that the
31 court shall consider any pattern of behavior on the part of the parent
32 that has exposed the child to repeated abuse.

33 (d) If reunification services are not ordered pursuant to
34 paragraph (1) of subdivision (b) and the whereabouts of a parent
35 become known within six months of the out-of-home placement
36 of the child, the court shall order the social worker to provide
37 family reunification services in accordance with this subdivision.

38 (e) (1) If the parent or guardian is incarcerated or
39 institutionalized, the court shall order reasonable services unless
40 the court determines, by clear and convincing evidence, those

1 services would be detrimental to the child. In determining
2 detriment, the court shall consider the age of the child, the degree
3 of parent-child bonding, the length of the sentence, the length and
4 nature of the treatment, the nature of the crime or illness, the degree
5 of detriment to the child if services are not offered and, for children
6 10 years of age or older, the child's attitude toward the
7 implementation of family reunification services, the likelihood of
8 the parent's discharge from incarceration or institutionalization
9 within the reunification time limitations described in subdivision
10 (a), and any other appropriate factors. In determining the content
11 of reasonable services, the court shall consider the particular
12 barriers to an incarcerated or otherwise institutionalized parent's
13 access to those court-mandated services and ability to maintain
14 contact with his or her child, and shall document this information
15 in the child's case plan. Reunification services are subject to the
16 applicable time limitations imposed in subdivision (a). Services
17 may include, but shall not be limited to, all of the following:

18 (A) Maintaining contact between the parent and child through
19 collect telephone calls.

20 (B) Transportation services, where appropriate.

21 (C) Visitation services, where appropriate.

22 (D) Reasonable services to extended family members or foster
23 parents providing care for the child if the services are not
24 detrimental to the child.

25 An incarcerated parent may be required to attend counseling,
26 parenting classes, or vocational training programs as part of the
27 reunification service plan if actual access to these services is
28 provided. The social worker shall document in the child's case
29 plan the particular barriers to an incarcerated or institutionalized
30 parent's access to those court-mandated services and ability to
31 maintain contact with his or her child.

32 (2) The presiding judge of the juvenile court of each county
33 may convene representatives of the county welfare department,
34 the sheriff's department, and other appropriate entities for the
35 purpose of developing and entering into protocols for ensuring the
36 notification, transportation, and presence of an incarcerated or
37 institutionalized parent at all court hearings involving proceedings
38 affecting the child pursuant to Section 2625 of the Penal Code.
39 The county welfare department shall utilize the prisoner locator
40 system developed by the Department of Corrections and

1 Rehabilitation to facilitate timely and effective notice of hearings
2 for incarcerated parents.

3 (3) Notwithstanding any other provision of law, if the
4 incarcerated parent is a woman seeking to participate in the
5 community treatment program operated by the Department of
6 Corrections and Rehabilitation pursuant to Chapter 4.8
7 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
8 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
9 Code, the court shall determine whether the parent's participation
10 in a program is in the child's best interest and whether it is suitable
11 to meet the needs of the parent and child.

12 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
13 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
14 paragraph (1) of subdivision (e), does not order reunification
15 services, it shall, at the dispositional hearing, that shall include a
16 permanency hearing, determine if a hearing under Section 366.26
17 shall be set in order to determine whether adoption, guardianship,
18 or long-term foster care, or in the case of an Indian child, in
19 consultation with the child's tribe, tribal customary adoption, is
20 the most appropriate plan for the child, and shall consider in-state
21 and out-of-state placement options. If the court so determines, it
22 shall conduct the hearing pursuant to Section 366.26 within 120
23 days after the dispositional hearing. However, the court shall not
24 schedule a hearing so long as the other parent is being provided
25 reunification services pursuant to subdivision (a). The court may
26 continue to permit the parent to visit the child unless it finds that
27 visitation would be detrimental to the child.

28 (g) (1) Whenever a court orders that a hearing shall be held
29 pursuant to Section 366.26, including, when, in consultation with
30 the child's tribe, tribal customary adoption is recommended, it
31 shall direct the agency supervising the child and the licensed county
32 adoption agency, or the State Department of Social Services when
33 it is acting as an adoption agency in counties that are not served
34 by a county adoption agency, to prepare an assessment that shall
35 include:

36 (A) Current search efforts for an absent parent or parents *and*
37 *notification of a noncustodial parent in the manner provided for*
38 *in Section 291.*

39 (B) A review of the amount of and nature of any contact between
40 the child and his or her parents and other members of his or her

1 extended family since the time of placement. Although the
2 extended family of each child shall be reviewed on a case-by-case
3 basis, “extended family” for the purpose of this subparagraph shall
4 include, but not be limited to, the child’s siblings, grandparents,
5 aunts, and uncles.

6 (C) An evaluation of the child’s medical, developmental,
7 scholastic, mental, and emotional status.

8 (D) A preliminary assessment of the eligibility and commitment
9 of any identified prospective adoptive parent or guardian, including
10 a prospective tribal customary adoptive parent, particularly the
11 caretaker, to include a social history, including screening for
12 criminal records and prior referrals for child abuse or neglect, the
13 capability to meet the child’s needs, and the understanding of the
14 legal and financial rights and responsibilities of adoption and
15 guardianship. If a proposed guardian is a relative of the minor, ~~and~~
16 ~~the relative was assessed for foster care placement of the minor~~
17 ~~prior to January 1, 1998~~, the assessment shall also consider, but
18 need not be limited to, all of the factors specified in subdivision
19 (a) of Section 361.3 *and in Section 361.4*. As used in this
20 subparagraph, “relative” means an adult who is related to the minor
21 by blood, adoption, or affinity within the fifth degree of kinship,
22 including stepparents, stepsiblings, and all relatives whose status
23 is preceded by the words “great,” “great-great,” or “grand,” or the
24 spouse of any of those persons even if the marriage was terminated
25 by death or dissolution.

26 (E) The relationship of the child to any identified prospective
27 adoptive parent or guardian, including a prospective tribal
28 customary parent, the duration and character of the relationship,
29 *the degree of attachment of the child to the prospective relative*
30 *guardian or adoptive parent, the relative’s or adoptive parent’s*
31 *strong commitment to caring permanently for the child, the*
32 motivation for seeking adoption or guardianship, ~~and~~ a statement
33 from the child concerning placement and the adoption or
34 guardianship, *and whether the child over 12 years of age has been*
35 *consulted about the proposed relative guardianship arrangements,*
36 unless the child’s age or physical, emotional, or other condition
37 precludes his or her meaningful response, and if so, a description
38 of the condition.

39 (F) An analysis of the likelihood that the child will be adopted
40 if parental rights are terminated.

1 (G) In the case of an Indian child, in addition to subparagraphs
2 (A) to (F), inclusive, an assessment of the likelihood that the child
3 will be adopted, when, in consultation with the child’s tribe, a
4 customary tribal adoption, as defined in Section 366.24, is
5 recommended. If tribal customary adoption is recommended, the
6 assessment shall include an analysis of both of the following:

7 (i) Whether tribal customary adoption would or would not be
8 detrimental to the Indian child and the reasons for reaching that
9 conclusion.

10 (ii) Whether the Indian child cannot or should not be returned
11 to the home of the Indian parent or Indian custodian and the reasons
12 for reaching that conclusion.

13 (2) (A) A relative caregiver’s preference for legal guardianship
14 over adoption, if it is due to circumstances that do not include an
15 unwillingness to accept legal or financial responsibility for the
16 child, shall not constitute the sole basis for recommending removal
17 of the child from the relative caregiver for purposes of adoptive
18 placement.

19 (B) A relative caregiver shall be given information regarding
20 the permanency options of guardianship and adoption, including
21 the long-term benefits and consequences of each option, prior to
22 establishing legal guardianship or pursuing adoption.

23 *(h) If, at any hearing held pursuant to Section 366.26, a*
24 *guardianship is established for the minor with an approved relative*
25 *caregiver and juvenile court dependency is subsequently dismissed,*
26 *the minor shall be eligible for aid under the Kin-GAP Program*
27 *as provided for in Article 4.5 (commencing with Section 11360)*
28 *or Article 4.7 (commencing with Section 11385) of Chapter 2, as*
29 *applicable.*

30 ~~(h)~~

31 (i) In determining whether reunification services will benefit
32 the child pursuant to paragraph (6) or (7) of subdivision (b), the
33 court shall consider any information it deems relevant, including
34 the following factors:

35 (1) The specific act or omission comprising the severe sexual
36 abuse or the severe physical harm inflicted on the child or the
37 child’s sibling or half sibling.

38 (2) The circumstances under which the abuse or harm was
39 inflicted on the child or the child’s sibling or half sibling.

1 (3) The severity of the emotional trauma suffered by the child
2 or the child’s sibling or half sibling.

3 (4) Any history of abuse of other children by the offending
4 parent or guardian.

5 (5) The likelihood that the child may be safely returned to the
6 care of the offending parent or guardian within 12 months with no
7 continuing supervision.

8 (6) Whether or not the child desires to be reunified with the
9 offending parent or guardian.

10 (i)

11 (j) The court shall read into the record the basis for a finding of
12 severe sexual abuse or the infliction of severe physical harm under
13 paragraph (6) of subdivision (b), and shall also specify the factual
14 findings used to determine that the provision of reunification
15 services to the offending parent or guardian would not benefit the
16 child.

17 (j)

18 (k) This section shall remain in effect only until January 1, 2014,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2014, deletes or extends that date.

21 *SEC. 14. Section 361.5 of the Welfare and Institutions Code,*
22 *as added by Section 7 of Chapter 287 of the Statutes of 2009, is*
23 *amended to read:*

24 361.5. (a) Except as provided in subdivision (b), or when the
25 parent has voluntarily relinquished the child and the relinquishment
26 has been filed with the State Department of Social Services, or
27 upon the establishment of an order of guardianship pursuant to
28 Section 360, whenever a child is removed from a parent’s or
29 guardian’s custody, the juvenile court shall order the social worker
30 to provide child welfare services to the child and the child’s mother
31 and statutorily presumed father or guardians. Upon a finding and
32 declaration of paternity by the juvenile court or proof of a prior
33 declaration of paternity by any court of competent jurisdiction, the
34 juvenile court may order services for the child and the biological
35 father, if the court determines that the services will benefit the
36 child.

37 (1) Family reunification services, when provided, shall be
38 provided as follows:

39 (A) Except as otherwise provided in subparagraph (C), for a
40 child who, on the date of initial removal from the physical custody

1 of his or her parent or guardian, was three years of age or older,
2 court-ordered services shall be provided beginning with the
3 dispositional hearing and ending 12 months after the date the child
4 entered foster care as defined in Section 361.49, unless the child
5 is returned to the home of the parent or guardian.

6 (B) For a child who, on the date of initial removal from the
7 physical custody of his or her parent or guardian, was under three
8 years of age, court-ordered services shall be provided for a period
9 of six months from the dispositional hearing as provided in
10 subdivision (e) of Section 366.21, but no longer than 12 months
11 from the date the child entered foster care as defined in Section
12 361.49 unless the child is returned to the home of the parent or
13 guardian.

14 (C) For the purpose of placing and maintaining a sibling group
15 together in a permanent home should reunification efforts fail, for
16 a child in a sibling group whose members were removed from
17 parental custody at the same time, and in which one member of
18 the sibling group was under three years of age on the date of initial
19 removal from the physical custody of his or her parent or guardian,
20 court-ordered services for some or all of the sibling group may be
21 limited as set forth in subparagraph (B). For the purposes of this
22 paragraph, “a sibling group” shall mean two or more children who
23 are related to each other as full or half siblings.

24 (2) Any motion to terminate court-ordered reunification services
25 prior to the hearing set pursuant to subdivision (f) of Section 366.21
26 for a child described by subparagraph (A) of paragraph (1), or
27 prior to the hearing set pursuant to subdivision (e) of Section
28 366.21 for a child described by subparagraph (B) or (C) of
29 paragraph (1), shall be made pursuant to the requirements set forth
30 in subdivision (c) of Section 388. A motion to terminate
31 court-ordered reunification services shall not be required at the
32 hearing set pursuant to subdivision (e) of Section 366.21 if the
33 court finds by clear and convincing evidence one of the following:

34 (A) That the child was removed initially under subdivision (g)
35 of Section 300 and the whereabouts of the parent are still unknown.

36 (B) That the parent has failed to contact and visit the child.

37 (C) That the parent has been convicted of a felony indicating
38 parental unfitness.

39 (3) Notwithstanding subparagraphs (A), (B), and (C) of
40 paragraph (1), court-ordered services may be extended up to a

1 maximum time period not to exceed 18 months after the date the
2 child was originally removed from physical custody of his or her
3 parent or guardian if it can be shown, at the hearing held pursuant
4 to subdivision (f) of Section 366.21, that the permanent plan for
5 the child is that he or she will be returned and safely maintained
6 in the home within the extended time period. The court shall extend
7 the time period only if it finds that there is a substantial probability
8 that the child will be returned to the physical custody of his or her
9 parent or guardian within the extended time period or that
10 reasonable services have not been provided to the parent or
11 guardian. In determining whether court-ordered services may be
12 extended, the court shall consider the special circumstances of an
13 incarcerated or institutionalized parent or parents, or parent or
14 parents court-ordered to a residential substance abuse treatment
15 program, including, but not limited to, barriers to the parent's or
16 guardian's access to services and ability to maintain contact with
17 his or her child. The court shall also consider, among other factors,
18 good faith efforts that the parent or guardian has made to maintain
19 contact with the child. If the court extends the time period, the
20 court shall specify the factual basis for its conclusion that there is
21 a substantial probability that the child will be returned to the
22 physical custody of his or her parent or guardian within the
23 extended time period. The court also shall make findings pursuant
24 to subdivision (a) of Section 366 and subdivision (e) of Section
25 358.1.

26 When counseling or other treatment services are ordered, the
27 parent or guardian shall be ordered to participate in those services,
28 unless the parent's or guardian's participation is deemed by the
29 court to be inappropriate or potentially detrimental to the child, or
30 unless a parent or guardian is incarcerated and the corrections
31 facility in which he or she is incarcerated does not provide access
32 to the treatment services ordered by the court. Physical custody of
33 the child by the parents or guardians during the applicable time
34 period under subparagraph (A), (B), or (C) of paragraph (1) shall
35 not serve to interrupt the running of the period. If at the end of the
36 applicable time period, a child cannot be safely returned to the
37 care and custody of a parent or guardian without court supervision,
38 but the child clearly desires contact with the parent or guardian,
39 the court shall take the child's desire into account in devising a
40 permanency plan.

1 In cases where the child was under three years of age on the date
2 of the initial removal from the physical custody of his or her parent
3 or guardian or is a member of a sibling group as described in
4 subparagraph (C) of paragraph (1), the court shall inform the parent
5 or guardian that the failure of the parent or guardian to participate
6 regularly in any court-ordered treatment programs or to cooperate
7 or avail himself or herself of services provided as part of the child
8 welfare services case plan may result in a termination of efforts
9 to reunify the family after six months. The court shall inform the
10 parent or guardian of the factors used in subdivision (e) of Section
11 366.21 to determine whether to limit services to six months for
12 some or all members of a sibling group as described in
13 subparagraph (C) of paragraph (1).

14 (4) Notwithstanding paragraph (3), court-ordered services may
15 be extended up to a maximum time period not to exceed 24 months
16 after the date the child was originally removed from physical
17 custody of his or her parent or guardian if it is shown, at the hearing
18 held pursuant to subdivision (b) of Section 366.22, that the
19 permanent plan for the child is that he or she will be returned and
20 safely maintained in the home within the extended time period.
21 The court shall extend the time period only if it finds that it is in
22 the child's best interest to have the time period extended and that
23 there is a substantial probability that the child will be returned to
24 the physical custody of his or her parent or guardian who is
25 described in subdivision (b) of Section 366.22 within the extended
26 time period, or that reasonable services have not been provided to
27 the parent or guardian. If the court extends the time period, the
28 court shall specify the factual basis for its conclusion that there is
29 a substantial probability that the child will be returned to the
30 physical custody of his or her parent or guardian within the
31 extended time period. The court also shall make findings pursuant
32 to subdivision (a) of Section 366 and subdivision (e) of Section
33 358.1.

34 When counseling or other treatment services are ordered, the
35 parent or guardian shall be ordered to participate in those services,
36 in order for substantial probability to be found. Physical custody
37 of the child by the parents or guardians during the applicable time
38 period under subparagraph (A), (B), or (C) of paragraph (1) shall
39 not serve to interrupt the running of the period. If at the end of the
40 applicable time period, the child cannot be safely returned to the

1 care and custody of a parent or guardian without court supervision,
2 but the child clearly desires contact with the parent or guardian,
3 the court shall take the child's desire into account in devising a
4 permanency plan.

5 Except in cases where, pursuant to subdivision (b), the court
6 does not order reunification services, the court shall inform the
7 parent or parents of Section 366.26 and shall specify that the
8 parent's or parents' parental rights may be terminated.

9 (b) Reunification services need not be provided to a parent or
10 guardian described in this subdivision when the court finds, by
11 clear and convincing evidence, any of the following:

12 (1) That the whereabouts of the parent or guardian is unknown.
13 A finding pursuant to this paragraph shall be supported by an
14 affidavit or by proof that a reasonably diligent search has failed
15 to locate the parent or guardian. The posting or publication of
16 notices is not required in that search.

17 (2) That the parent or guardian is suffering from a mental
18 disability that is described in Chapter 2 (commencing with Section
19 7820) of Part 4 of Division 12 of the Family Code and that renders
20 him or her incapable of utilizing those services.

21 (3) That the child or a sibling of the child has been previously
22 adjudicated a dependent pursuant to any subdivision of Section
23 300 as a result of physical or sexual abuse, that following that
24 adjudication the child had been removed from the custody of his
25 or her parent or guardian pursuant to Section 361, that the child
26 has been returned to the custody of the parent or guardian from
27 whom the child had been taken originally, and that the child is
28 being removed pursuant to Section 361, due to additional physical
29 or sexual abuse.

30 (4) That the parent or guardian of the child has caused the death
31 of another child through abuse or neglect.

32 (5) That the child was brought within the jurisdiction of the
33 court under subdivision (e) of Section 300 because of the conduct
34 of that parent or guardian.

35 (6) That the child has been adjudicated a dependent pursuant
36 to any subdivision of Section 300 as a result of severe sexual abuse
37 or the infliction of severe physical harm to the child, a sibling, or
38 a half sibling by a parent or guardian, as defined in this subdivision,
39 and the court makes a factual finding that it would not benefit the

1 child to pursue reunification services with the offending parent or
2 guardian.

3 A finding of severe sexual abuse, for the purposes of this
4 subdivision, may be based on, but is not limited to, sexual
5 intercourse, or stimulation involving genital-genital, oral-genital,
6 anal-genital, or oral-anal contact, whether between the parent or
7 guardian and the child or a sibling or half sibling of the child, or
8 between the child or a sibling or half sibling of the child and
9 another person or animal with the actual or implied consent of the
10 parent or guardian; or the penetration or manipulation of the
11 child's, sibling's, or half sibling's genital organs or rectum by any
12 animate or inanimate object for the sexual gratification of the
13 parent or guardian, or for the sexual gratification of another person
14 with the actual or implied consent of the parent or guardian.

15 A finding of the infliction of severe physical harm, for the
16 purposes of this subdivision, may be based on, but is not limited
17 to, deliberate and serious injury inflicted to or on a child's body
18 or the body of a sibling or half sibling of the child by an act or
19 omission of the parent or guardian, or of another individual or
20 animal with the consent of the parent or guardian; deliberate and
21 torturous confinement of the child, sibling, or half sibling in a
22 closed space; or any other torturous act or omission that would be
23 reasonably understood to cause serious emotional damage.

24 (7) That the parent is not receiving reunification services for a
25 sibling or a half sibling of the child pursuant to paragraph (3), (5),
26 or (6).

27 (8) That the child was conceived by means of the commission
28 of an offense listed in Section 288 or 288.5 of the Penal Code, or
29 by an act committed outside of this state that, if committed in this
30 state, would constitute one of those offenses. This paragraph only
31 applies to the parent who committed the offense or act.

32 (9) That the child has been found to be a child described in
33 subdivision (g) of Section 300, that the parent or guardian of the
34 child willfully abandoned the child, and the court finds that the
35 abandonment itself constituted a serious danger to the child; or
36 that the parent or other person having custody of the child
37 voluntarily surrendered physical custody of the child pursuant to
38 Section 1255.7 of the Health and Safety Code. For the purposes
39 of this paragraph, "serious danger" means that without the
40 intervention of another person or agency, the child would have

1 sustained severe or permanent disability, injury, illness, or death.
2 For purposes of this paragraph, “willful abandonment” shall not
3 be construed as actions taken in good faith by the parent without
4 the intent of placing the child in serious danger.

5 (10) That the court ordered termination of reunification services
6 for any siblings or half siblings of the child because the parent or
7 guardian failed to reunify with the sibling or half sibling after the
8 sibling or half sibling had been removed from that parent or
9 guardian pursuant to Section 361 and that parent or guardian is
10 the same parent or guardian described in subdivision (a) and that,
11 according to the findings of the court, this parent or guardian has
12 not subsequently made a reasonable effort to treat the problems
13 that led to removal of the sibling or half sibling of that child from
14 that parent or guardian.

15 (11) That the parental rights of a parent over any sibling or half
16 sibling of the child had been permanently severed, and this parent
17 is the same parent described in subdivision (a), and that, according
18 to the findings of the court, this parent has not subsequently made
19 a reasonable effort to treat the problems that led to removal of the
20 sibling or half sibling of that child from the parent.

21 (12) That the parent or guardian of the child has been convicted
22 of a violent felony, as defined in subdivision (c) of Section 667.5
23 of the Penal Code.

24 (13) That the parent or guardian of the child has a history of
25 extensive, abusive, and chronic use of drugs or alcohol and has
26 resisted prior court-ordered treatment for this problem during a
27 three-year period immediately prior to the filing of the petition
28 that brought that child to the court’s attention, or has failed or
29 refused to comply with a program of drug or alcohol treatment
30 described in the case plan required by Section 358.1 on at least
31 two prior occasions, even though the programs identified were
32 available and accessible.

33 (14) That the parent or guardian of the child has advised the
34 court that he or she is not interested in receiving family
35 maintenance or family reunification services or having the child
36 returned to or placed in his or her custody and does not wish to
37 receive family maintenance or reunification services.

38 The parent or guardian shall be represented by counsel and shall
39 execute a waiver of services form to be adopted by the Judicial
40 Council. The court shall advise the parent or guardian of any right

1 to services and of the possible consequences of a waiver of
2 services, including the termination of parental rights and placement
3 of the child for adoption. The court shall not accept the waiver of
4 services unless it states on the record its finding that the parent or
5 guardian has knowingly and intelligently waived the right to
6 services.

7 (15) That the parent or guardian has on one or more occasions
8 willfully abducted the child or child's sibling or half sibling from
9 his or her placement and refused to disclose the child's or child's
10 sibling's or half sibling's whereabouts, refused to return physical
11 custody of the child or child's sibling or half sibling to his or her
12 placement, or refused to return physical custody of the child or
13 child's sibling or half sibling to the social worker.

14 (c) In deciding whether to order reunification in any case in
15 which this section applies, the court shall hold a dispositional
16 hearing. The social worker shall prepare a report that discusses
17 whether reunification services shall be provided. When it is alleged,
18 pursuant to paragraph (2) of subdivision (b), that the parent is
19 incapable of utilizing services due to mental disability, the court
20 shall order reunification services unless competent evidence from
21 mental health professionals establishes that, even with the provision
22 of services, the parent is unlikely to be capable of adequately caring
23 for the child within the time limits specified in subdivision (a).

24 The court shall not order reunification for a parent or guardian
25 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
26 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
27 and convincing evidence, that reunification is in the best interest
28 of the child.

29 In addition, the court shall not order reunification in any situation
30 described in paragraph (5) of subdivision (b) unless it finds that,
31 based on competent testimony, those services are likely to prevent
32 reabuse or continued neglect of the child or that failure to try
33 reunification will be detrimental to the child because the child is
34 closely and positively attached to that parent. The social worker
35 shall investigate the circumstances leading to the removal of the
36 child and advise the court whether there are circumstances that
37 indicate that reunification is likely to be successful or unsuccessful
38 and whether failure to order reunification is likely to be detrimental
39 to the child.

1 The failure of the parent to respond to previous services, the fact
2 that the child was abused while the parent was under the influence
3 of drugs or alcohol, a past history of violent behavior, or testimony
4 by a competent professional that the parent's behavior is unlikely
5 to be changed by services are among the factors indicating that
6 reunification services are unlikely to be successful. The fact that
7 a parent or guardian is no longer living with an individual who
8 severely abused the child may be considered in deciding that
9 reunification services are likely to be successful, provided that the
10 court shall consider any pattern of behavior on the part of the parent
11 that has exposed the child to repeated abuse.

12 (d) If reunification services are not ordered pursuant to
13 paragraph (1) of subdivision (b) and the whereabouts of a parent
14 become known within six months of the out-of-home placement
15 of the child, the court shall order the social worker to provide
16 family reunification services in accordance with this subdivision.

17 (e) (1) If the parent or guardian is incarcerated or
18 institutionalized, the court shall order reasonable services unless
19 the court determines, by clear and convincing evidence, those
20 services would be detrimental to the child. In determining
21 detriment, the court shall consider the age of the child, the degree
22 of parent-child bonding, the length of the sentence, the length and
23 nature of the treatment, the nature of the crime or illness, the degree
24 of detriment to the child if services are not offered and, for children
25 10 years of age or older, the child's attitude toward the
26 implementation of family reunification services, the likelihood of
27 the parent's discharge from incarceration or institutionalization
28 within the reunification time limitations described in subdivision
29 (a), and any other appropriate factors. In determining the content
30 of reasonable services, the court shall consider the particular
31 barriers to an incarcerated or otherwise institutionalized parent's
32 access to those court-mandated services and ability to maintain
33 contact with his or her child, and shall document this information
34 in the child's case plan. Reunification services are subject to the
35 applicable time limitations imposed in subdivision (a). Services
36 may include, but shall not be limited to, all of the following:

37 (A) Maintaining contact between the parent and child through
38 collect telephone calls.

39 (B) Transportation services, where appropriate.

40 (C) Visitation services, where appropriate.

1 (D) Reasonable services to extended family members or foster
2 parents providing care for the child if the services are not
3 detrimental to the child.

4 An incarcerated parent may be required to attend counseling,
5 parenting classes, or vocational training programs as part of the
6 reunification service plan if actual access to these services is
7 provided. The social worker shall document in the child's case
8 plan the particular barriers to an incarcerated or institutionalized
9 parent's access to those court-mandated services and ability to
10 maintain contact with his or her child.

11 (2) The presiding judge of the juvenile court of each county
12 may convene representatives of the county welfare department,
13 the sheriff's department, and other appropriate entities for the
14 purpose of developing and entering into protocols for ensuring the
15 notification, transportation, and presence of an incarcerated or
16 institutionalized parent at all court hearings involving proceedings
17 affecting the child pursuant to Section 2625 of the Penal Code.
18 The county welfare department shall utilize the prisoner locator
19 system developed by the Department of Corrections and
20 Rehabilitation to facilitate timely and effective notice of hearings
21 for incarcerated parents.

22 (3) Notwithstanding any other provision of law, if the
23 incarcerated parent is a woman seeking to participate in the
24 community treatment program operated by the Department of
25 Corrections and Rehabilitation pursuant to Chapter 4.8
26 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
27 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
28 Code, the court shall determine whether the parent's participation
29 in a program is in the child's best interest and whether it is suitable
30 to meet the needs of the parent and child.

31 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
32 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
33 paragraph (1) of subdivision (e), does not order reunification
34 services, it shall, at the dispositional hearing, that shall include a
35 permanency hearing, determine if a hearing under Section 366.26
36 shall be set in order to determine whether adoption, guardianship,
37 or long-term foster care is the most appropriate plan for the child,
38 and shall consider in-state and out-of-state placement options. If
39 the court so determines, it shall conduct the hearing pursuant to
40 Section 366.26 within 120 days after the dispositional hearing.

1 However, the court shall not schedule a hearing so long as the
2 other parent is being provided reunification services pursuant to
3 subdivision (a). The court may continue to permit the parent to
4 visit the child unless it finds that visitation would be detrimental
5 to the child.

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

12 (A) Current search efforts for an absent parent or parents *and*
13 *notification of a noncustodial parent in the manner provided for*
14 *in Section 291.*

15 (B) A review of the amount of and nature of any contact between
16 the child and his or her parents and other members of his or her
17 extended family since the time of placement. Although the
18 extended family of each child shall be reviewed on a case-by-case
19 basis, “extended family” for the purpose of this subparagraph shall
20 include, but not be limited to, the child’s siblings, grandparents,
21 aunts, and uncles.

22 (C) An evaluation of the child’s medical, developmental,
23 scholastic, mental, and emotional status.

24 (D) A preliminary assessment of the eligibility and commitment
25 of any identified prospective adoptive parent or guardian,
26 particularly the caretaker, to include a social history, including
27 screening for criminal records and prior referrals for child abuse
28 or neglect, the capability to meet the child’s needs, and the
29 understanding of the legal and financial rights and responsibilities
30 of adoption and guardianship. If a proposed guardian is a relative
31 of the minor, ~~and the relative was assessed for foster care placement~~
32 ~~of the minor prior to January 1, 1998,~~ the assessment shall also
33 consider, but need not be limited to, all of the factors specified in
34 subdivision (a) of Section 361.3 *and in Section 361.4.* As used in
35 this subparagraph, “relative” means an adult who is related to the
36 minor by blood, adoption, or affinity within the fifth degree of
37 kinship, including stepparents, stepsiblings, and all relatives whose
38 status is preceded by the words “great,” “great-great,” or “grand,”
39 or the spouse of any of those persons even if the marriage was
40 terminated by death or dissolution.

1 (E) The relationship of the child to any identified prospective
2 adoptive parent or guardian, the duration and character of the
3 relationship, the *degree of attachment of the child to the prospective*
4 *relative guardian or adoptive parent, the relative's or adoptive*
5 *parent's strong commitment to caring permanently for the child,*
6 *the motivation for seeking adoption or guardianship,—and a*
7 *statement from the child concerning placement and the adoption*
8 *or guardianship, and whether the child over 12 years of age has*
9 *been consulted about the proposed relative guardianship*
10 *arrangements unless the child's age or physical, emotional, or*
11 *other condition precludes his or her meaningful response, and if*
12 *so, a description of the condition.*

13 (F) An analysis of the likelihood that the child will be adopted
14 if parental rights are terminated.

15 (2) (A) A relative caregiver's preference for legal guardianship
16 over adoption, if it is due to circumstances that do not include an
17 unwillingness to accept legal or financial responsibility for the
18 child, shall not constitute the sole basis for recommending removal
19 of the child from the relative caregiver for purposes of adoptive
20 placement.

21 (B) A relative caregiver shall be given information regarding
22 the permanency options of guardianship and adoption, including
23 the long-term benefits and consequences of each option, prior to
24 establishing legal guardianship or pursuing adoption.

25 (h) *If, at any hearing held pursuant to Section 366.26, a*
26 *guardianship is established for the minor with an approved relative*
27 *caregiver and juvenile court dependency is subsequently dismissed,*
28 *the minor shall be eligible for aid under the Kin-GAP Program*
29 *as provided for in Article 4.5 (commencing with Section 11360)*
30 *or Article 4.7 (commencing with Section 11385) of Chapter 2, as*
31 *applicable.*

32 ~~(h)~~

33 (i) In determining whether reunification services will benefit
34 the child pursuant to paragraph (6) or (7) of subdivision (b), the
35 court shall consider any information it deems relevant, including
36 the following factors:

37 (1) The specific act or omission comprising the severe sexual
38 abuse or the severe physical harm inflicted on the child or the
39 child's sibling or half sibling.

- 1 (2) The circumstances under which the abuse or harm was
- 2 inflicted on the child or the child’s sibling or half sibling.
- 3 (3) The severity of the emotional trauma suffered by the child
- 4 or the child’s sibling or half sibling.
- 5 (4) Any history of abuse of other children by the offending
- 6 parent or guardian.
- 7 (5) The likelihood that the child may be safely returned to the
- 8 care of the offending parent or guardian within 12 months with no
- 9 continuing supervision.
- 10 (6) Whether or not the child desires to be reunified with the
- 11 offending parent or guardian.
- 12 (i)
- 13 (j) The court shall read into the record the basis for a finding of
- 14 severe sexual abuse or the infliction of severe physical harm under
- 15 paragraph (6) of subdivision (b), and shall also specify the factual
- 16 findings used to determine that the provision of reunification
- 17 services to the offending parent or guardian would not benefit the
- 18 child.
- 19 (j)
- 20 (k) This section shall become operative on January 1, 2014.
- 21 ~~SEC. 14.~~
- 22 *SEC. 15.* Section 366 of the Welfare and Institutions Code is
- 23 amended to read:
- 24 366. (a) (1) The status of every dependent child in foster care
- 25 shall be reviewed periodically as determined by the court but no
- 26 less frequently than once every six months, as calculated from the
- 27 date of the original dispositional hearing, until the hearing
- 28 described in Section 366.26 is completed. The court shall consider
- 29 the safety of the child and shall determine all of the following:
- 30 (A) The continuing necessity for and appropriateness of the
- 31 placement.
- 32 (B) The extent of the agency’s compliance with the case plan
- 33 in making reasonable efforts, or, in the case of an Indian child,
- 34 active efforts as described in Section 361.7, to return the child to
- 35 a safe home and to complete any steps necessary to finalize the
- 36 permanent placement of the child, including efforts to maintain
- 37 relationships between a child who is 10 years of age or older and
- 38 who has been in an out-of-home placement for six months or
- 39 longer, and individuals other than the child’s siblings who are
- 40 important to the child, consistent with the child’s best interests.

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

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

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

13 (II) The appropriateness of developing or maintaining the sibling
14 relationships pursuant to Section 16002.

15 (III) If the siblings are not placed together in the same home,
16 why the siblings are not placed together and what efforts are being
17 made to place the siblings together, or why those efforts are not
18 appropriate.

19 (IV) If the siblings are not placed together, the frequency and
20 nature of the visits between siblings.

21 (V) The impact of the sibling relationships on the child's
22 placement and planning for legal permanence.

23 (VI) The continuing need to suspend sibling interaction, if
24 applicable, pursuant to subdivision (c) of Section 16002.

25 (ii) The factors the court may consider in making a determination
26 regarding the nature of the child's sibling relationships may
27 include, but are not limited to, whether the siblings were raised
28 together in the same home, whether the siblings have shared
29 significant common experiences or have existing close and strong
30 bonds, whether either sibling expresses a desire to visit or live with
31 his or her sibling, as applicable, and whether ongoing contact is
32 in the child's best emotional interests.

33 (E) The extent of progress that has been made toward alleviating
34 or mitigating the causes necessitating placement in foster care.

35 (F) On and after October 1, ~~2010~~ 2011, if the review hearing is
36 the last review hearing to be held before the child attains 18 years
37 of age, the court shall ensure that the child's transitional
38 independent living case plan includes a plan for the child to meet
39 one or more of the criteria set forth in Section 11403, so that the
40 child can remain a nonminor dependent, and that the child has

1 been informed of his or her right to seek the termination of
2 dependency jurisdiction pursuant to Section 391.

3 (2) The court shall project a likely date by which the child may
4 be returned to and safely maintained in the home or placed for
5 adoption, legal guardianship, or in another planned permanent
6 living arrangement.

7 (b) Subsequent to the hearing, periodic reviews of each child
8 in foster care shall be conducted pursuant to the requirements of
9 Sections 366.3 and 16503.

10 (c) If the child has been placed out of state, each review
11 described in subdivision (a) and any reviews conducted pursuant
12 to Sections 366.3 and 16503 shall also address whether the
13 out-of-state placement continues to be the most appropriate
14 placement selection and in the best interests of the child.

15 (d) A child may not be placed in an out-of-state group home,
16 or remain in an out-of-state group home, unless the group home
17 is in compliance with Section 7911.1 of the Family Code.

18 (e) The implementation and operation of the amendments to
19 subparagraph (B) of paragraph (1) of subdivision (a) enacted at
20 the 2005–06 Regular Session shall be subject to appropriation
21 through the budget process and by phase, as provided in Section
22 366.35.

23 (f) The status of every nonminor dependent, as defined in
24 subdivision (v) of Section 11400, shall be reviewed periodically
25 as determined by the court, but no less frequently than once every
26 six months, as calculated from the date of the original dispositional
27 hearing until dependency jurisdiction is terminated pursuant to
28 Section 391. The review shall include all of the issues set forth in
29 subdivision (a), except subparagraph (C) of paragraph (1) of
30 subdivision (a), and shall be conducted in a manner that respects
31 the nonminor dependent's status as a legal adult, be focused on
32 the goals and services described in the nonminor dependent's
33 transitional independent living case plan, including efforts made
34 to maintain connections with caring and permanently committed
35 adults, and attended as appropriate by additional participants
36 invited by the nonminor dependent. An appropriate placement for
37 a nonminor dependent may include a supervised independent living
38 setting, as described in Section 11400.

39 ~~SEC. 15. Section 366.21 of the Welfare and Institutions Code~~
40 ~~is amended to read:~~

1 ~~366.21.— (a) Every hearing conducted by the juvenile court~~
2 ~~reviewing the status of a dependent child shall be placed on the~~
3 ~~appearance calendar. The court shall advise all persons present at~~
4 ~~the hearing of the date of the future hearing and of their right to~~
5 ~~be present and represented by counsel.~~

6 ~~(b) Except as provided in Sections 294 and 295, notice of the~~
7 ~~hearing shall be provided pursuant to Section 293.~~

8 ~~(c) At least 10 calendar days prior to the hearing, the social~~
9 ~~worker shall file a supplemental report with the court regarding~~
10 ~~the services provided or offered to the parent or legal guardian to~~
11 ~~enable him or her to assume custody and the efforts made to~~
12 ~~achieve legal permanence for the child if efforts to reunify fail,~~
13 ~~including, but not limited to, efforts to maintain relationships~~
14 ~~between a child who is 10 years of age or older and has been in~~
15 ~~out-of-home placement for six months or longer and individuals~~
16 ~~who are important to the child, consistent with the child's best~~
17 ~~interests; the progress made; and, where relevant, the prognosis~~
18 ~~for return of the child to the physical custody of his or her parent~~
19 ~~or legal guardian; and shall make his or her recommendation for~~
20 ~~disposition. If the child is a member of a sibling group described~~
21 ~~in subparagraph (C) of paragraph (1) of subdivision (a) of Section~~
22 ~~361.5, the report and recommendation may also take into account~~
23 ~~those factors described in subdivision (e) relating to the child's~~
24 ~~sibling group. If the recommendation is not to return the child to~~
25 ~~a parent or legal guardian, the report shall specify why the return~~
26 ~~of the child would be detrimental to the child. The social worker~~
27 ~~shall provide the parent or legal guardian, counsel for the child,~~
28 ~~and any court-appointed child advocate with a copy of the report,~~
29 ~~including his or her recommendation for disposition, at least 10~~
30 ~~calendar days prior to the hearing. In the case of a child removed~~
31 ~~from the physical custody of his or her parent or legal guardian,~~
32 ~~the social worker shall, at least 10 calendar days prior to the~~
33 ~~hearing, provide a summary of his or her recommendation for~~
34 ~~disposition to any foster parents, relative caregivers, and certified~~
35 ~~foster parents who have been approved for adoption by the State~~
36 ~~Department of Social Services when it is acting as an adoption~~
37 ~~agency in counties that are not served by a county adoption agency~~
38 ~~or by a licensed county adoption agency, community care facility,~~
39 ~~or foster family agency having the physical custody of the child.~~
40 ~~The social worker shall include a copy of the Judicial Council~~

1 Caregiver Information Form (JV-290) with the summary of
2 recommendations to the child's foster parents, relative caregivers,
3 or foster parents approved for adoption, in the caregiver's primary
4 language when available, along with information on how to file
5 the form with the court.

6 (d) Prior to any hearing involving a child in the physical custody
7 of a community care facility or a foster family agency that may
8 result in the return of the child to the physical custody of his or
9 her parent or legal guardian, or in adoption or the creation of a
10 legal guardianship, the facility or agency shall file with the court
11 a report, or a Judicial Council Caregiver Information Form
12 (JV-290), containing its recommendation for disposition. Prior to
13 the hearing involving a child in the physical custody of a foster
14 parent, a relative caregiver, or a certified foster parent who has
15 been approved for adoption by the State Department of Social
16 Services when it is acting as an adoption agency or by a licensed
17 adoption agency, the foster parent, relative caregiver, or the
18 certified foster parent who has been approved for adoption by the
19 State Department of Social Services when it is acting as an
20 adoption agency in counties that are not served by a county
21 adoption agency or by a licensed county adoption agency, may
22 file with the court a report containing his or her recommendation
23 for disposition. The court shall consider the report and
24 recommendation filed pursuant to this subdivision prior to
25 determining any disposition.

26 (e) At the review hearing held six months after the initial
27 dispositional hearing, the court shall order the return of the child
28 to the physical custody of his or her parent or legal guardian unless
29 the court finds, by a preponderance of the evidence, that the return
30 of the child to his or her parent or legal guardian would create a
31 substantial risk of detriment to the safety, protection, or physical
32 or emotional well-being of the child. The social worker shall have
33 the burden of establishing that detriment. At the hearing, the court
34 shall consider the criminal history, obtained pursuant to paragraph
35 (1) of subdivision (f) of Section 16504.5, of the parent or legal
36 guardian subsequent to the child's removal to the extent that the
37 criminal record is substantially related to the welfare of the child
38 or the parent's or guardian's ability to exercise custody and control
39 regarding his or her child, provided the parent or legal guardian
40 agreed to submit fingerprint images to obtain criminal history

1 information as part of the case plan. The failure of the parent or
2 legal guardian to participate regularly and make substantive
3 progress in court-ordered treatment programs shall be prima facie
4 evidence that return would be detrimental. In making its
5 determination, the court shall review and consider the social
6 worker's report and recommendations and the report and
7 recommendations of any child advocate appointed pursuant to
8 Section 356.5; and shall consider the efforts or progress, or both,
9 demonstrated by the parent or legal guardian and the extent to
10 which he or she availed himself or herself to services provided,
11 taking into account the particular barriers to an incarcerated or
12 institutionalized parent or legal guardian's access to those
13 court-mandated services and ability to maintain contact with his
14 or her child.

15 Regardless of whether the child is returned to a parent or legal
16 guardian, the court shall specify the factual basis for its conclusion
17 that the return would be detrimental or would not be detrimental.
18 The court also shall make appropriate findings pursuant to
19 subdivision (a) of Section 366; and, where relevant, shall order
20 any additional services reasonably believed to facilitate the return
21 of the child to the custody of his or her parent or legal guardian.
22 The court shall also inform the parent or legal guardian that if the
23 child cannot be returned home by the 12-month permanency
24 hearing, a proceeding pursuant to Section 366.26 may be instituted.
25 This section does not apply in a case where, pursuant to Section
26 361.5, the court has ordered that reunification services shall not
27 be provided.

28 If the child was under three years of age on the date of the initial
29 removal, or is a member of a sibling group described in
30 subparagraph (C) of paragraph (1) of subdivision (a) of Section
31 361.5, and the court finds by clear and convincing evidence that
32 the parent failed to participate regularly and make substantive
33 progress in a court-ordered treatment plan, the court may schedule
34 a hearing pursuant to Section 366.26 within 120 days. If, however,
35 the court finds there is a substantial probability that the child, who
36 was under three years of age on the date of initial removal or is a
37 member of a sibling group described in subparagraph (C) of
38 paragraph (1) of subdivision (a) of Section 361.5, may be returned
39 to his or her parent or legal guardian within six months or that

1 reasonable services have not been provided, the court shall continue
2 the case to the 12-month permanency hearing.

3 ~~For the purpose of placing and maintaining a sibling group
4 together in a permanent home, the court, in making its
5 determination to schedule a hearing pursuant to Section 366.26
6 for some or all members of a sibling group, as described in
7 subparagraph (C) of paragraph (1) of subdivision (a) of Section
8 361.5, shall review and consider the social worker's report and
9 recommendations. Factors the report shall address, and the court
10 shall consider, may include, but need not be limited to, whether
11 the sibling group was removed from parental care as a group, the
12 closeness and strength of the sibling bond, the ages of the siblings,
13 the appropriateness of maintaining the sibling group together, the
14 detriment to the child if sibling ties are not maintained, the
15 likelihood of finding a permanent home for the sibling group,
16 whether the sibling group is currently placed together in a
17 preadoptive home or has a concurrent plan goal of legal
18 permanency in the same home, the wishes of each child whose
19 age and physical and emotional condition permits a meaningful
20 response, and the best interest of each child in the sibling group.
21 The court shall specify the factual basis for its finding that it is in
22 the best interest of each child to schedule a hearing pursuant to
23 Section 366.26 in 120 days for some or all of the members of the
24 sibling group.~~

25 ~~If the child was removed initially under subdivision (g) of
26 Section 300 and the court finds by clear and convincing evidence
27 that the whereabouts of the parent are still unknown, or the parent
28 has failed to contact and visit the child, the court may schedule a
29 hearing pursuant to Section 366.26 within 120 days. The court
30 shall take into account any particular barriers to a parent's ability
31 to maintain contact with his or her child due to the parent's
32 incarceration or institutionalization. If the court finds by clear and
33 convincing evidence that the parent has been convicted of a felony
34 indicating parental unfitness, the court may schedule a hearing
35 pursuant to Section 366.26 within 120 days.~~

36 ~~If the child had been placed under court supervision with a
37 previously noncustodial parent pursuant to Section 361.2, the court
38 shall determine whether supervision is still necessary. The court
39 may terminate supervision and transfer permanent custody to that~~

1 parent, as provided for by paragraph (1) of subdivision (b) of
2 Section 361.2.

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

8 If the child is not returned to his or her parent or legal guardian,
9 the court shall determine whether reasonable services that were
10 designed to aid the parent or legal guardian in overcoming the
11 problems that led to the initial removal and the continued custody
12 of the child have been provided or offered to the parent or legal
13 guardian. The court shall order that those services be initiated,
14 continued, or terminated.

15 (f) The permanency hearing shall be held no later than 12
16 months after the date the child entered foster care, as that date is
17 determined pursuant to subdivision (a) of Section 361.5. At the
18 permanency hearing, the court shall determine the permanent plan
19 for the child, which shall include a determination of whether the
20 child will be returned to the child's home and, if so, when, within
21 the time limits of subdivision (a) of Section 361.5. The court shall
22 order the return of the child to the physical custody of his or her
23 parent or legal guardian unless the court finds, by a preponderance
24 of the evidence, that the return of the child to his or her parent or
25 legal guardian would create a substantial risk of detriment to the
26 safety, protection, or physical or emotional well-being of the child.
27 The social worker shall have the burden of establishing that
28 detriment. At the permanency hearing, the court shall consider the
29 criminal history, obtained pursuant to paragraph (1) of subdivision
30 (f) of Section 16504.5, of the parent or legal guardian subsequent
31 to the child's removal to the extent that the criminal record is
32 substantially related to the welfare of the child or the parent or
33 legal guardian's ability to exercise custody and control regarding
34 his or her child, provided that the parent or legal guardian agreed
35 to submit fingerprint images to obtain criminal history information
36 as part of the case plan. The court shall also determine whether
37 reasonable services that were designed to aid the parent or legal
38 guardian to overcome the problems that led to the initial removal
39 and continued custody of the child have been provided or offered
40 to the parent or legal guardian. For each youth 16 years of age and

1 older, the court shall also determine whether services have been
2 made available to assist him or her in making the transition from
3 foster care to independent living. The failure of the parent or legal
4 guardian to participate regularly and make substantive progress in
5 court-ordered treatment programs shall be prima facie evidence
6 that return would be detrimental. In making its determination, the
7 court shall review and consider the social worker's report and
8 recommendations and the report and recommendations of any child
9 advocate appointed pursuant to Section 356.5, shall consider the
10 efforts or progress, or both, demonstrated by the parent or legal
11 guardian and the extent to which he or she availed himself or
12 herself of services provided, taking into account the particular
13 barriers to an incarcerated or institutionalized parent or legal
14 guardian's access to those court-mandated services and ability to
15 maintain contact with his or her child and shall make appropriate
16 findings pursuant to subdivision (a) of Section 366.

17 Regardless of whether the child is returned to his or her parent
18 or legal guardian, the court shall specify the factual basis for its
19 decision. If the child is not returned to a parent or legal guardian,
20 the court shall specify the factual basis for its conclusion that the
21 return would be detrimental. The court also shall make a finding
22 pursuant to subdivision (a) of Section 366. If the child is not
23 returned to his or her parent or legal guardian, the court shall
24 consider, and state for the record, in-state and out-of-state
25 placement options. If the child is placed out of the state, the court
26 shall make a determination whether the out-of-state placement
27 continues to be appropriate and in the best interests of the child.

28 (g) If the time period in which the court-ordered services were
29 provided has met or exceeded the time period set forth in
30 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
31 of Section 361.5, as appropriate, and a child is not returned to the
32 custody of a parent or legal guardian at the permanency hearing
33 held pursuant to subdivision (f), the court shall do one of the
34 following:

35 (1) Continue the case for up to six months for a permanency
36 review hearing, provided that the hearing shall occur within 18
37 months of the date the child was originally taken from the physical
38 custody of his or her parent or legal guardian. The court shall
39 continue the case only if it finds that there is a substantial
40 probability that the child will be returned to the physical custody

1 of his or her parent or legal guardian and safely maintained in the
2 home within the extended period of time or that reasonable services
3 have not been provided to the parent or legal guardian. For the
4 purposes of this section, in order to find a substantial probability
5 that the child will be returned to the physical custody of his or her
6 parent or legal guardian and safely maintained in the home within
7 the extended period of time, the court shall be required to find all
8 of the following:

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

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

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

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

24 The court shall inform the parent or legal guardian that if the
25 child cannot be returned home by the next permanency review
26 hearing, a proceeding pursuant to Section 366.26 may be instituted.
27 The court may not order that a hearing pursuant to Section 366.26
28 be held unless there is clear and convincing evidence that
29 reasonable services have been provided or offered to the parent or
30 legal guardian.

31 (2) Order that a hearing be held within 120 days, pursuant to
32 Section 366.26, but only if the court does not continue the case to
33 the permanency planning review hearing and there is clear and
34 convincing evidence that reasonable services have been provided
35 or offered to the parents or legal guardians. A hearing pursuant to
36 Section 366.26 shall not be ordered if the child is a nonminor
37 dependent.

38 (3) Order that the child remain in long-term foster care, but only
39 if the court finds by clear and convincing evidence, based upon
40 the evidence already presented to it, including a recommendation

1 by the State Department of Social Services when it is acting as an
2 adoption agency in counties that are not served by a county
3 adoption agency or by a licensed county adoption agency, that
4 there is a compelling reason for determining that a hearing held
5 pursuant to Section 366.26 is not in the best interest of the child
6 because the child is not a proper subject for adoption and has no
7 one willing to accept legal guardianship. For purposes of this
8 section, a recommendation by the State Department of Social
9 Services when it is acting as an adoption agency in counties that
10 are not served by a county adoption agency or by a licensed county
11 adoption agency that adoption is not in the best interest of the child
12 shall constitute a compelling reason for the court's determination.
13 That recommendation shall be based on the present circumstances
14 of the child and shall not preclude a different recommendation at
15 a later date if the child's circumstances change. The nonminor
16 dependent's legal status as an adult is in and of itself a compelling
17 reason not to hold a hearing pursuant to Section 366.26. The court
18 may order that a nonminor dependent who otherwise meets the
19 criteria described in Section 11403 remain in long-term foster care.

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

27 If the child is not returned to his or her parent or legal guardian,
28 the court shall consider, and state for the record, in-state and
29 out-of-state options for permanent placement. If the child is placed
30 out of the state, the court shall make a determination whether the
31 out-of-state placement continues to be appropriate and in the best
32 interests of the child.

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

1 other than the child's siblings, who are important to the child,
2 consistent with the child's best interests.

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

9 (A) Current search efforts for an absent parent or parents or
10 legal guardians.

11 (B) A review of the amount of and nature of any contact between
12 the child and his or her parents or legal guardians and other
13 members of his or her extended family since the time of placement.
14 Although the extended family of each child shall be reviewed on
15 a case-by-case basis, "extended family" for the purpose of this
16 subparagraph shall include, but not be limited to, the child's
17 siblings, grandparents, aunts, and uncles.

18 (C) An evaluation of the child's medical, developmental,
19 scholastic, mental, and emotional status.

20 (D) A preliminary assessment of the eligibility and commitment
21 of any identified prospective adoptive parent or legal guardian,
22 particularly the caretaker, to include a social history including
23 screening for criminal records and prior referrals for child abuse
24 or neglect, the capability to meet the child's needs, and the
25 understanding of the legal and financial rights and responsibilities
26 of adoption and guardianship. If a proposed guardian is a relative
27 of the minor, the assessment shall also consider, but need not be
28 limited to, all of the factors specified in subdivision (a) of Section
29 361.3 and in Section 361.4.

30 (E) The relationship of the child to any identified prospective
31 adoptive parent or legal guardian, the duration and character of
32 the relationship, the degree of attachment of the child to the
33 prospective relative guardian or adoptive parent, the relative's or
34 adoptive parent's strong commitment to caring permanently for
35 the child, the motivation for seeking adoption or guardianship, a
36 statement from the child concerning placement and the adoption
37 or guardianship, and whether the child, if over 12 years of age,
38 has been consulted about the proposed relative guardianship
39 arrangements, unless the child's age or physical, emotional, or

1 other condition precludes his or her meaningful response, and if
2 so, a description of the condition.

3 ~~(F) A description of efforts to be made to identify a prospective
4 adoptive parent or legal guardian, including, but not limited to,
5 child-specific recruitment and listing on an adoption exchange
6 within the state or out of the state.~~

7 ~~(G) An analysis of the likelihood that the child will be adopted
8 if parental rights are terminated.~~

9 ~~(2) (A) A relative caregiver's preference for legal guardianship
10 over adoption, if it is due to circumstances that do not include an
11 unwillingness to accept legal or financial responsibility for the
12 child, shall not constitute the sole basis for recommending removal
13 of the child from the relative caregiver for purposes of adoptive
14 placement.~~

15 ~~(B) A relative caregiver shall be given information regarding
16 the permanency options of guardianship and adoption, including
17 the long-term benefits and consequences of each option, prior to
18 establishing legal guardianship or pursuing adoption.~~

19 ~~(j) If, at any hearing held pursuant to Section 366.26, a
20 guardianship is established for the minor with an approved relative
21 caregiver, and juvenile court dependency is subsequently
22 dismissed, the minor shall be eligible for aid under the Kin-GAP
23 Program, as provided for in Article 4.5 (commencing with Section
24 11360) or Article 4.7 (commencing with Section 11385), as
25 applicable, of Chapter 2 of Part 3 of Division 9.~~

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

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

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

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

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

4 ~~(m) The implementation and operation of the amendments to~~
5 ~~subdivisions (c) and (g) enacted at the 2005–06 Regular Session~~
6 ~~shall be subject to appropriation through the budget process and~~
7 ~~by phase, as provided in Section 366.35.~~

8 ~~SEC. 16.— Section 366.22 of the Welfare and Institutions Code~~
9 ~~is amended to read:~~

10 ~~366.22. (a) When a case has been continued pursuant to~~
11 ~~paragraph (1) of subdivision (g) of Section 366.21, the permanency~~
12 ~~review hearing shall occur within 18 months after the date the~~
13 ~~child was originally removed from the physical custody of his or~~
14 ~~her parent or legal guardian. The court shall order the return of the~~
15 ~~child to the physical custody of his or her parent or legal guardian~~
16 ~~unless the court finds, by a preponderance of the evidence, that~~
17 ~~the return of the child to his or her parent or legal guardian would~~
18 ~~create a substantial risk of detriment to the safety, protection, or~~
19 ~~physical or emotional well-being of the child. The social worker~~
20 ~~shall have the burden of establishing that detriment. At the~~
21 ~~permanency review hearing, the court shall consider the criminal~~
22 ~~history, obtained pursuant to paragraph (1) of subdivision (f) of~~
23 ~~Section 16504.5, of the parent or legal guardian subsequent to the~~
24 ~~child's removal, to the extent that the criminal record is~~
25 ~~substantially related to the welfare of the child or the parent's or~~
26 ~~legal guardian's ability to exercise custody and control regarding~~
27 ~~his or her child, provided that the parent or legal guardian agreed~~
28 ~~to submit fingerprint images to obtain criminal history information~~
29 ~~as part of the case plan. The failure of the parent or legal guardian~~
30 ~~to participate regularly and make substantive progress in~~
31 ~~court-ordered treatment programs shall be prima facie evidence~~
32 ~~that return would be detrimental. In making its determination, the~~
33 ~~court shall review and consider the social worker's report and~~
34 ~~recommendations and the report and recommendations of any child~~
35 ~~advocate appointed pursuant to Section 356.5; shall consider the~~
36 ~~efforts or progress, or both, demonstrated by the parent or legal~~
37 ~~guardian and the extent to which he or she availed himself or~~
38 ~~herself of services provided, taking into account the particular~~
39 ~~barriers of an incarcerated or institutionalized parent or legal~~
40 ~~guardian's access to those court-mandated services and ability to~~

1 maintain contact with his or her child; and shall make appropriate
2 findings pursuant to subdivision (a) of Section 366.

3 Whether or not the child is returned to his or her parent or legal
4 guardian, the court shall specify the factual basis for its decision.
5 If the child is not returned to a parent or legal guardian, the court
6 shall specify the factual basis for its conclusion that return would
7 be detrimental. If the child is not returned to his or her parent or
8 legal guardian, the court shall consider, and state for the record,
9 in-state and out-of-state options for the child's permanent
10 placement. If the child is placed out of the state, the court shall
11 make a determination whether the out-of-state placement continues
12 to be appropriate and in the best interests of the child.

13 Unless the conditions in subdivision (b) are met and the child is
14 not returned to a parent or legal guardian at the permanency review
15 hearing, the court shall order that a hearing be held pursuant to
16 Section 366.26 in order to determine whether adoption,
17 guardianship, or long-term foster care is the most appropriate plan
18 for the child. A hearing pursuant to Section 366.26 shall not be
19 ordered if the child is a nonminor dependent. However, if the court
20 finds by clear and convincing evidence, based on the evidence
21 already presented to it, including a recommendation by the State
22 Department of Social Services when it is acting as an adoption
23 agency in counties that are not served by a county adoption agency
24 or by a licensed county adoption agency, that there is a compelling
25 reason, as described in paragraph (3) of subdivision (g) of Section
26 366.21, for determining that a hearing held under Section 366.26
27 is not in the best interest of the child because the child is not a
28 proper subject for adoption and has no one willing to accept legal
29 guardianship, then the court may, only under these circumstances,
30 order that the child remain in long-term foster care. The nonminor
31 dependent's legal status as an adult is in and of itself a compelling
32 reason not to hold a hearing pursuant to Section 366.26. The court
33 may order that a nonminor dependent who otherwise meets the
34 criteria described in Section 11403 remain in long-term foster care.
35 If the court orders that a child who is 10 years of age or older
36 remain in long-term foster care, the court shall determine whether
37 the agency has made reasonable efforts to maintain the child's
38 relationships with individuals other than the child's siblings who
39 are important to the child, consistent with the child's best interests,
40 and may make any appropriate order to ensure that those

1 relationships are maintained. The hearing shall be held no later
2 than 120 days from the date of the permanency review hearing.
3 The court shall also order termination of reunification services to
4 the parent or legal guardian. The court shall continue to permit the
5 parent or legal guardian to visit the child unless it finds that
6 visitation would be detrimental to the child. The court shall
7 determine whether reasonable services have been offered or
8 provided to the parent or legal guardian. For purposes of this
9 subdivision, evidence of any of the following circumstances shall
10 not, in and of themselves, be deemed a failure to provide or offer
11 reasonable services:

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

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

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

19 (b) If the child is not returned to a parent or legal guardian at
20 the permanency review hearing and the court determines by clear
21 and convincing evidence that the best interests of the child would
22 be met by the provision of additional reunification services to a
23 parent or legal guardian who is making significant and consistent
24 progress in a substance abuse treatment program, or a parent
25 recently discharged from incarceration or institutionalization and
26 making significant and consistent progress in establishing a safe
27 home for the child's return, the court may continue the case for
28 up to six months for a subsequent permanency review hearing,
29 provided that the hearing shall occur within 24 months of the date
30 the child was originally taken from the physical custody of his or
31 her parent or legal guardian. The court shall continue the case only
32 if it finds that there is a substantial probability that the child will
33 be returned to the physical custody of his or her parent or legal
34 guardian and safely maintained in the home within the extended
35 period of time or that reasonable services have not been provided
36 to the parent or legal guardian. For the purposes of this section, in
37 order to find a substantial probability that the child will be returned
38 to the physical custody of his or her parent or legal guardian and
39 safely maintained in the home within the extended period of time,
40 the court shall be required to find all of the following:

1 ~~(1) That the parent or legal guardian has consistently and~~
2 ~~regularly contacted and visited with the child.~~

3 ~~(2) That the parent or legal guardian has made significant and~~
4 ~~consistent progress in the prior 18 months in resolving problems~~
5 ~~that led to the child's removal from the home.~~

6 ~~(3) The parent or legal guardian has demonstrated the capacity~~
7 ~~and ability both to complete the objectives of his or her substance~~
8 ~~abuse treatment plan as evidenced by reports from a substance~~
9 ~~abuse provider as applicable, or complete a treatment plan~~
10 ~~postdischarge from incarceration or institutionalization, and to~~
11 ~~provide for the child's safety, protection, physical and emotional~~
12 ~~well-being, and special needs.~~

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

19 ~~The court shall inform the parent or legal guardian that if the~~
20 ~~child cannot be returned home by the subsequent permanency~~
21 ~~review hearing, a proceeding pursuant to Section 366.26 may be~~
22 ~~instituted. The court may not order that a hearing pursuant to~~
23 ~~Section 366.26 be held unless there is clear and convincing~~
24 ~~evidence that reasonable services have been provided or offered~~
25 ~~to the parent or legal guardian.~~

26 ~~(e) (1) Whenever a court orders that a hearing pursuant to~~
27 ~~Section 366.26 shall be held, it shall direct the agency supervising~~
28 ~~the child and the licensed county adoption agency, or the State~~
29 ~~Department of Social Services when it is acting as an adoption~~
30 ~~agency in counties that are not served by a county adoption agency,~~
31 ~~to prepare an assessment that shall include:~~

32 ~~(A) Current search efforts for an absent parent or parents.~~

33 ~~(B) A review of the amount of and nature of any contact between~~
34 ~~the child and his or her parents and other members of his or her~~
35 ~~extended family since the time of placement. Although the~~
36 ~~extended family of each child shall be reviewed on a case-by-case~~
37 ~~basis, "extended family" for the purposes of this subparagraph~~
38 ~~shall include, but not be limited to, the child's siblings,~~
39 ~~grandparents, aunts, and uncles.~~

1 ~~(C) An evaluation of the child's medical, developmental,~~
2 ~~scholastic, mental, and emotional status.~~

3 ~~(D) A preliminary assessment of the eligibility and commitment~~
4 ~~of any identified prospective adoptive parent or legal guardian,~~
5 ~~particularly the caretaker, to include a social history including~~
6 ~~screening for criminal records and prior referrals for child abuse~~
7 ~~or neglect, the capability to meet the child's needs, and the~~
8 ~~understanding of the legal and financial rights and responsibilities~~
9 ~~of adoption and guardianship. If a proposed legal guardian is a~~
10 ~~relative of the minor, the assessment shall also consider, but need~~
11 ~~not be limited to, all of the factors specified in subdivision (a) of~~
12 ~~Section 361.3 and Section 361.4.~~

13 ~~(E) The relationship of the child to any identified prospective~~
14 ~~adoptive parent or legal guardian, the duration and character of~~
15 ~~the relationship, the degree of attachment of the child to the~~
16 ~~prospective relative guardian or adoptive parent, the relative's or~~
17 ~~adoptive parent's strong commitment to caring permanently for~~
18 ~~the child, the motivation for seeking adoption or legal guardianship,~~
19 ~~a statement from the child concerning placement and the adoption~~
20 ~~or legal guardianship, and whether the child, if over 12 years of~~
21 ~~age, has been consulted about the proposed relative guardianship~~
22 ~~arrangements, unless the child's age or physical, emotional, or~~
23 ~~other condition precludes his or her meaningful response, and if~~
24 ~~so, a description of the condition.~~

25 ~~(F) An analysis of the likelihood that the child will be adopted~~
26 ~~if parental rights are terminated.~~

27 ~~(2) (A) A relative caregiver's preference for legal guardianship~~
28 ~~over adoption, if it is due to circumstances that do not include an~~
29 ~~unwillingness to accept legal or financial responsibility for the~~
30 ~~child, shall not constitute the sole basis for recommending removal~~
31 ~~of the child from the relative caregiver for purposes of adoptive~~
32 ~~placement.~~

33 ~~(B) A relative caregiver shall be given information regarding~~
34 ~~the permanency options of guardianship and adoption, including~~
35 ~~the long-term benefits and consequences of each option, prior to~~
36 ~~establishing legal guardianship or pursuing adoption.~~

37 ~~(d) This section shall become operative January 1, 1999. If at~~
38 ~~any hearing held pursuant to Section 366.26, a legal guardianship~~
39 ~~is established for the minor with an approved relative caregiver,~~
40 ~~and juvenile court dependency is subsequently dismissed, the minor~~

1 shall be eligible for aid under the Kin-GAP Program, as provided
2 for in Article 4.5 (commencing with Section 11360) or Article 4.7
3 (commencing with Section 11385), as applicable, of Chapter 2 of
4 Part 3 of Division 9.

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

11 (f) The implementation and operation of the amendments to
12 subdivision (a) enacted at the 2005-06 Regular Session shall be
13 subject to appropriation through the budget process and by phase,
14 as provided in Section 366.35.

15 SEC. 17. Section 366.25 of the Welfare and Institutions Code
16 is amended to read:

17 366.25. (a) (1) When a case has been continued pursuant to
18 subdivision (b) of Section 366.22, the subsequent permanency
19 review hearing shall occur within 24 months after the date the
20 child was originally removed from the physical custody of his or
21 her parent or legal guardian. The court shall order the return of the
22 child to the physical custody of his or her parent or legal guardian
23 unless the court finds, by a preponderance of the evidence, that
24 the return of the child to his or her parent or legal guardian would
25 create a substantial risk of detriment to the safety, protection, or
26 physical or emotional well-being of the child. The social worker
27 shall have the burden of establishing that detriment. At the
28 subsequent permanency review hearing, the court shall consider
29 the criminal history, obtained pursuant to paragraph (1) of
30 subdivision (f) of Section 16504.5, of the parent or legal guardian
31 subsequent to the child’s removal to the extent that the criminal
32 record is substantially related to the welfare of the child or parent
33 or legal guardian’s ability to exercise custody and control regarding
34 his or her child provided that the parent or legal guardian agreed
35 to submit fingerprint images to obtain criminal history information
36 as part of the case plan. The failure of the parent or legal guardian
37 to participate regularly and make substantive progress in
38 court-ordered treatment programs shall be prima facie evidence
39 that return would be detrimental. In making its determination, the
40 court shall review and consider the social worker’s report and

1 recommendations and the report and recommendations of any child
2 advocate appointed pursuant to Section 356.5; shall consider the
3 efforts or progress, or both, demonstrated by the parent or legal
4 guardian and the extent to which he or she availed himself or
5 herself of services provided; and shall make appropriate findings
6 pursuant to subdivision (a) of Section 366.

7 (2) Whether or not the child is returned to his or her parent or
8 legal guardian, the court shall specify the factual basis for its
9 decision. If the child is not returned to a parent or legal guardian,
10 the court shall specify the factual basis for its conclusion that return
11 would be detrimental. If the child is not returned to his or her
12 parents or legal guardian, the court shall consider and state for the
13 record, in-state and out-of-state options for the child's permanent
14 placement. If the child is placed out of the state, the court shall
15 make a determination whether the out-of-state placement continues
16 to be appropriate and in best interests of the child.

17 (3) If the child is not returned to a parent or legal guardian at
18 the subsequent permanency review hearing, the court shall order
19 that a hearing be held pursuant to Section 366.26 in order to
20 determine whether adoption, guardianship, or long-term foster
21 care is the most appropriate plan for the child. A hearing pursuant
22 to Section 366.26 shall not be ordered if the child is a nonminor
23 dependent. However, if the court finds by clear and convincing
24 evidence, based on the evidence already presented to it, including
25 a recommendation by the State Department of Social Services
26 when it is acting as an adoption agency in counties that are not
27 served by a county adoption agency or by a licensed county
28 adoption agency, that there is a compelling reason, as described
29 in paragraph (3) of subdivision (g) of Section 366.21, for
30 determining that a hearing held under Section 366.26 is not in the
31 best interest of the child because the child is not a proper subject
32 for adoption and has no one willing to accept legal guardianship,
33 then the court may, only under these circumstances, order that the
34 child remain in long-term foster care. The nonminor dependent's
35 legal status as an adult is in and of itself a compelling reason not
36 to hold a hearing pursuant to Section 366.26. The court may order
37 that a nonminor dependent who otherwise meets the criteria
38 described in Section 11403 remain in long-term foster care. If the
39 court orders that a child who is 10 years of age or older remain in
40 long-term foster care, the court shall determine whether the agency

1 has made reasonable efforts to maintain the child's relationships
2 with individuals other than the child's siblings who are important
3 to the child, consistent with the child's best interests, and may
4 make any appropriate order to ensure that those relationships are
5 maintained. The hearing shall be held no later than 120 days from
6 the date of the subsequent permanency review hearing. The court
7 shall also order termination of reunification services to the parent
8 or legal guardian. The court shall continue to permit the parent or
9 legal guardian to visit the child unless it finds that visitation would
10 be detrimental to the child. The court shall determine whether
11 reasonable services have been offered or provided to the parent or
12 legal guardian. For purposes of this subdivision, evidence of any
13 of the following circumstances shall not, in and of themselves, be
14 deemed a failure to provide or offer reasonable services:

15 (A) The child has been placed with a foster family that is eligible
16 to adopt a child, or has been placed in a preadoptive home.

17 (B) The case plan includes services to make and finalize a
18 permanent placement for the child if efforts to reunify fail.

19 (C) Services to make and finalize a permanent placement for
20 the child, if efforts to reunify fail, are provided concurrently with
21 services to reunify the family.

22 (b) (1) Whenever a court orders that a hearing pursuant to
23 Section 366.26 shall be held, it shall direct the agency supervising
24 the child and the licensed county adoption agency, or the State
25 Department of Social Services when it is acting as an adoption
26 agency in counties that are not served by a county adoption agency,
27 to prepare an assessment that shall include:

28 (A) Current search efforts for an absent parent or parents.

29 (B) A review of the amount of, and nature of, any contact
30 between the child and his or her parents and other members of his
31 or her extended family since the time of placement. Although the
32 extended family of each child shall be reviewed on a case-by-case
33 basis, "extended family" for the purposes of this paragraph shall
34 include, but not be limited to, the child's siblings, grandparents,
35 aunts, and uncles.

36 (C) An evaluation of the child's medical, developmental,
37 scholastic, mental, and emotional status.

38 (D) A preliminary assessment of the eligibility and commitment
39 of any identified prospective adoptive parent or legal guardian,
40 particularly the caretaker, to include a social history including

1 screening for criminal records and prior referrals for child abuse
2 or neglect, the capability to meet the child's needs, and the
3 understanding of the legal and financial rights and responsibilities
4 of adoption and guardianship. If a proposed legal guardian is a
5 relative of the minor, the assessment shall also consider, but need
6 not be limited to, all of the factors specified in subdivision (a) of
7 Section 361.3 and in Section 361.4.

8 (E) The relationship of the child to any identified prospective
9 adoptive parent or legal guardian, the duration and character of
10 the relationship, the degree of attachment of the child to the
11 prospective relative guardian or adoptive parent, the relative's or
12 adoptive parent's strong commitment to caring permanently for
13 the child, the motivation for seeking adoption or legal guardianship,
14 a statement from the child concerning placement and the adoption
15 or legal guardianship, and whether the child, if over 12 years of
16 age, has been consulted about the proposed relative guardianship
17 arrangements, unless the child's age or physical, emotional, or
18 other condition precludes his or her meaningful response, and if
19 so, a description of the condition.

20 (F) An analysis of the likelihood that the child will be adopted
21 if parental rights are terminated.

22 (2) (A) A relative caregiver's preference for legal guardianship
23 over adoption, if it is due to circumstances that do not include an
24 unwillingness to accept legal or financial responsibility for the
25 child, shall not constitute the sole basis for recommending removal
26 of the child from the relative caregiver for purposes of adoptive
27 placement.

28 (B) A relative caregiver shall be given information regarding
29 the permanency options of guardianship and adoption, including
30 the long-term benefits and consequences of each option, prior to
31 establishing legal guardianship or pursuing adoption.

32 (c) If, at any hearing held pursuant to Section 366.26, a
33 guardianship is established for the minor with an approved relative
34 caregiver, and juvenile court dependency is subsequently
35 dismissed, the minor shall be eligible for aid under the Kin-GAP
36 Program, as provided for in Article 4.5 (commencing with Section
37 11360) or Article 4.7 (commencing with Section 11385), as
38 applicable, of Chapter 2 of Part 3 of Division 9.

39 (d) As used in this section, "relative" means an adult who is
40 related to the minor by blood, adoption, or affinity within the fifth

1 degree of kinship, including stepparents, stepsiblings, and all
2 relatives whose status is preceded by the words “great,”
3 “great-great,” or “grand,” or the spouse of any of those persons
4 even if the marriage was terminated by death or dissolution.

5 (e) The implementation and operation of subdivision (a) enacted
6 at the 2005–06 Regular Session shall be subject to appropriation
7 through the budget process and by phase, as provided in Section
8 366.35.

9 SEC. 18. Section 366.3 of the Welfare and Institutions Code
10 is amended to read:

11 366.3. (a) If a juvenile court orders a permanent plan of
12 adoption or legal guardianship pursuant to Section 360 or 366.26,
13 the court shall retain jurisdiction over the child until the child is
14 adopted or the legal guardianship is established, except as provided
15 for in Section 366.29 or Section 366.31. The status of the child
16 shall be reviewed every six months to ensure that the adoption or
17 legal guardianship is completed as expeditiously as possible. When
18 the adoption of the child has been granted, the court shall terminate
19 its jurisdiction over the child. Following establishment of a legal
20 guardianship, the court may continue jurisdiction over the child
21 as a dependent child of the juvenile court or may terminate its
22 dependency jurisdiction and retain jurisdiction over the child as a
23 ward of the legal guardianship, as authorized by Section 366.4. If,
24 however, a relative of the child is appointed the legal guardian of
25 the child and the child has been placed with the relative for at least
26 six months, the court shall, except if the relative guardian objects,
27 or upon a finding of exceptional circumstances, terminate its
28 dependency jurisdiction and retain jurisdiction over the child as a
29 ward of the guardianship, as authorized by Section 366.4.
30 Following a termination of parental rights, the parent or parents
31 shall not be a party to, or receive notice of, any subsequent
32 proceedings regarding the child.

33 (b) If the court has dismissed dependency jurisdiction following
34 the establishment of a legal guardianship, or no dependency
35 jurisdiction attached because of the granting of a legal guardianship
36 pursuant to Section 360, and the legal guardianship is subsequently
37 revoked or otherwise terminated, the county department of social
38 services or welfare department shall notify the juvenile court of
39 this fact. The court may vacate its previous order dismissing
40 dependency jurisdiction over the child.

1 Notwithstanding Section 1601 of the Probate Code, the
2 proceedings to terminate a legal guardianship that has been granted
3 pursuant to Section 360 or 366.26 shall be held either in the
4 juvenile court that retains jurisdiction over the guardianship as
5 authorized by Section 366.4 or the juvenile court in the county
6 where the guardian and child currently reside, based on the best
7 interests of the child, unless the termination is due to the
8 emancipation or adoption of the child. The juvenile court having
9 jurisdiction over the guardianship shall receive notice from the
10 court in which the petition is filed within five calendar days of the
11 filing. Prior to the hearing on a petition to terminate legal
12 guardianship pursuant to this subdivision, the court shall order the
13 county department of social services or welfare department having
14 jurisdiction or jointly with the county department where the
15 guardian and child currently reside to prepare a report, for the
16 court's consideration, that shall include an evaluation of whether
17 the child could safely remain in, or be returned to, the legal
18 guardian's home, without terminating the legal guardianship, if
19 services were provided to the child or legal guardian. If applicable,
20 the report shall also identify recommended family maintenance or
21 reunification services to maintain the legal guardianship and set
22 forth a plan for providing those services. If the petition to terminate
23 legal guardianship is granted, either juvenile court may resume
24 dependency jurisdiction over the child, and may order the county
25 department of social services or welfare department to develop a
26 new permanent plan, which shall be presented to the court within
27 60 days of the termination. If no dependency jurisdiction has
28 attached, the social worker shall make any investigation he or she
29 deems necessary to determine whether the child may be within the
30 jurisdiction of the juvenile court, as provided in Section 328.

31 Unless the parental rights of the child's parent or parents have
32 been terminated, they shall be notified that the legal guardianship
33 has been revoked or terminated and shall be entitled to participate
34 in the new permanency planning hearing. The court shall try to
35 place the child in another permanent placement. At the hearing,
36 the parents may be considered as custodians but the child shall not
37 be returned to the parent or parents unless they prove, by a
38 preponderance of the evidence, that reunification is the best
39 alternative for the child. The court may, if it is in the best interests

1 of the child, order that reunification services again be provided to
2 the parent or parents.

3 (e) ~~If, following the establishment of a legal guardianship, the~~
4 ~~county welfare department becomes aware of changed~~
5 ~~circumstances that indicate adoption may be an appropriate plan~~
6 ~~for the child, the department shall so notify the court. The court~~
7 ~~may vacate its previous order dismissing dependency jurisdiction~~
8 ~~over the child and order that a hearing be held pursuant to Section~~
9 ~~366.26 to determine whether adoption or continued legal~~
10 ~~guardianship is the most appropriate plan for the child. The hearing~~
11 ~~shall be held no later than 120 days from the date of the order. If~~
12 ~~the court orders that a hearing shall be held pursuant to Section~~
13 ~~366.26, the court shall direct the agency supervising the child and~~
14 ~~the licensed county adoption agency, or the State Department of~~
15 ~~Social Services if it is acting as an adoption agency in counties~~
16 ~~that are not served by a county adoption agency, to prepare an~~
17 ~~assessment under subdivision (b) of Section 366.22.~~

18 (d) ~~If the child or nonminor dependent is in a placement other~~
19 ~~than the home of a legal guardian and jurisdiction has not been~~
20 ~~dismissed, the status of the child shall be reviewed at least every~~
21 ~~six months. The review of the status of a child for whom the court~~
22 ~~has ordered parental rights terminated and who has been ordered~~
23 ~~placed for adoption shall be conducted by the court. The review~~
24 ~~of the status of a child or nonminor dependent for whom the court~~
25 ~~has not ordered parental rights terminated and who has not been~~
26 ~~ordered placed for adoption may be conducted by the court or an~~
27 ~~appropriate local agency. The court shall conduct the review under~~
28 ~~the following circumstances:~~

29 (1) ~~Upon the request of the child's parents or legal guardians.~~

30 (2) ~~Upon the request of the child or nonminor dependent.~~

31 (3) ~~It has been 12 months since a hearing held pursuant to~~
32 ~~Section 366.26 or an order that the child remain in long-term foster~~
33 ~~care pursuant to Section 366.21, 366.22, 366.25, 366.26, or~~
34 ~~subdivision (h).~~

35 (4) ~~It has been 12 months since a review was conducted by the~~
36 ~~court.~~

37 ~~The court shall determine whether or not reasonable efforts to~~
38 ~~make and finalize a permanent placement for the child have been~~
39 ~~made.~~

1 ~~(e) Except as provided in subdivision (g), at the review held~~
2 ~~every six months pursuant to subdivision (d), the reviewing body~~
3 ~~shall inquire about the progress being made to provide a permanent~~
4 ~~home for the child, shall consider the safety of the child, and shall~~
5 ~~determine all of the following:~~

6 ~~(1) The continuing necessity for, and appropriateness of, the~~
7 ~~placement.~~

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

20 ~~(3) The continuing appropriateness and extent of compliance~~
21 ~~with the permanent plan for the child, including efforts to maintain~~
22 ~~relationships between a child who is 10 years of age or older and~~
23 ~~who has been in out-of-home placement for six months or longer~~
24 ~~and individuals who are important to the child and efforts to~~
25 ~~identify a prospective adoptive parent or legal guardian, including,~~
26 ~~but not limited to, child-specific recruitment efforts and listing on~~
27 ~~an adoption exchange.~~

28 ~~(4) The extent of the agency's compliance with the child welfare~~
29 ~~services case plan in making reasonable efforts either to return the~~
30 ~~child to the safe home of the parent or to complete whatever steps~~
31 ~~are necessary to finalize the permanent placement of the child. If~~
32 ~~the reviewing body determines that a second period of reunification~~
33 ~~services is in the child's best interests, and that there is a significant~~
34 ~~likelihood of the child's return to a safe home due to changed~~
35 ~~circumstances of the parent, pursuant to subdivision (f), the specific~~
36 ~~reunification services required to effect the child's return to a safe~~
37 ~~home shall be described.~~

38 ~~(5) Whether there should be any limitation on the right of the~~
39 ~~parent or guardian to make educational decisions for the child.~~
40 ~~That limitation shall be specifically addressed in the court order~~

1 and may not exceed what is necessary to protect the child. If the
2 court specifically limits the right of the parent or guardian to make
3 educational decisions for the child, the court shall at the same time
4 appoint a responsible adult to make educational decisions for the
5 child pursuant to Section 361.

6 ~~(6) The adequacy of services provided to the child. The court
7 shall consider the progress in providing the information and
8 documents to the child, as described in Section 391. The court
9 shall also consider the need for, and progress in providing, the
10 assistance and services described in Section 391.~~

11 ~~(7) The extent of progress the parents or legal guardians have
12 made toward alleviating or mitigating the causes necessitating
13 placement in foster care.~~

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

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

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

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

23 ~~(C) If the siblings are not placed together in the same home,
24 why the siblings are not placed together and what efforts are being
25 made to place the siblings together, or why those efforts are not
26 appropriate.~~

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

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

31 ~~The factors the court may consider as indicators of the nature of
32 the child's sibling relationships include, but are not limited to,
33 whether the siblings were raised together in the same home,
34 whether the siblings have shared significant common experiences
35 or have existing close and strong bonds, whether either sibling
36 expresses a desire to visit or live with his or her sibling, as
37 applicable, and whether ongoing contact is in the child's best
38 emotional interests.~~

39 ~~(10) For a child who is 16 years of age or older, and, effective
40 October 1, 2010, for a nonminor dependent, the services needed~~

1 to assist the child or nonminor dependent to make the transition
2 from foster care to independent living.

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

6 Each licensed foster family agency shall submit reports for each
7 child in its care, custody, and control to the court concerning the
8 continuing appropriateness and extent of compliance with the
9 child's permanent plan, the extent of compliance with the case
10 plan, and the type and adequacy of services provided to the child.

11 (f) Unless their parental rights have been permanently
12 terminated, the parent or parents of the child are entitled to receive
13 notice of, and participate in, those hearings. It shall be presumed
14 that continued care is in the best interests of the child, unless the
15 parent or parents prove, by a preponderance of the evidence, that
16 further efforts at reunification are the best alternative for the child.
17 In those cases, the court may order that further reunification
18 services to return the child to a safe home environment be provided
19 to the parent or parents up to a period of six months, and family
20 maintenance services, as needed for an additional six months in
21 order to return the child to a safe home environment.

22 (g) At the review conducted by the court and held at least every
23 six months, regarding a child for whom the court has ordered
24 parental rights terminated and who has been ordered placed for
25 adoption, the county welfare department shall prepare and present
26 to the court a report describing the following:

- 27 (1) The child's present placement.
- 28 (2) The child's current physical, mental, emotional, and
29 educational status.
- 30 (3) If the child has not been placed with a prospective adoptive
31 parent or guardian, identification of individuals, other than the
32 child's siblings, who are important to the child and actions
33 necessary to maintain the child's relationship with those
34 individuals, provided that those relationships are in the best interest
35 of the child. The agency shall ask every child who is 10 years of
36 age or older to identify any individuals who are important to him
37 or her, consistent with the child's best interest, and may ask any
38 child who is younger than 10 years of age to provide that
39 information as appropriate. The agency shall make efforts to
40 identify other individuals who are important to the child.

- 1 ~~(4) Whether the child has been placed with a prospective~~
- 2 ~~adoptive parent or parents.~~
- 3 ~~(5) Whether an adoptive placement agreement has been signed~~
- 4 ~~and filed.~~
- 5 ~~(6) If the child has not been placed with a prospective adoptive~~
- 6 ~~parent or parents, the efforts made to identify an appropriate~~
- 7 ~~prospective adoptive parent or legal guardian, including, but not~~
- 8 ~~limited to, child-specific recruitment efforts and listing on an~~
- 9 ~~adoption exchange.~~
- 10 ~~(7) Whether the final adoption order should include provisions~~
- 11 ~~for postadoptive sibling contact pursuant to Section 366.29.~~
- 12 ~~(8) The progress of the search for an adoptive placement if one~~
- 13 ~~has not been identified.~~
- 14 ~~(9) Any impediments to the adoption or the adoptive placement.~~
- 15 ~~(10) The anticipated date by which the child will be adopted or~~
- 16 ~~placed in an adoptive home.~~
- 17 ~~(11) The anticipated date by which an adoptive placement~~
- 18 ~~agreement will be signed.~~
- 19 ~~(12) Recommendations for court orders that will assist in the~~
- 20 ~~placement of the child for adoption or in the finalization of the~~
- 21 ~~adoption.~~
- 22 ~~The court shall determine whether or not reasonable efforts to~~
- 23 ~~make and finalize a permanent placement for the child have been~~
- 24 ~~made.~~
- 25 ~~The court shall make appropriate orders to protect the stability~~
- 26 ~~of the child and to facilitate and expedite the permanent placement~~
- 27 ~~and adoption of the child.~~
- 28 ~~(h) At the review held pursuant to subdivision (d) for a child in~~
- 29 ~~long-term foster care, the court shall consider all permanency~~
- 30 ~~planning options for the child including whether the child should~~
- 31 ~~be returned to the home of the parent, placed for adoption, or~~
- 32 ~~appointed a legal guardian, or, if compelling reasons exist for~~
- 33 ~~finding that none of the foregoing options are in the best interest~~
- 34 ~~of the child, whether the child should be placed in another planned~~
- 35 ~~permanent living arrangement. The court shall order that a hearing~~
- 36 ~~be held pursuant to Section 366.26, unless it determines by clear~~
- 37 ~~and convincing evidence that there is a compelling reason for~~
- 38 ~~determining that a hearing held pursuant to Section 366.26 is not~~
- 39 ~~in the best interest of the child because the child is being returned~~
- 40 ~~to the home of the parent, the child is not a proper subject for~~

1 adoption, or no one is willing to accept legal guardianship. If the
2 licensed county adoption agency, or the department when it is
3 acting as an adoption agency in counties that are not served by a
4 county adoption agency, has determined it is unlikely that the child
5 will be adopted or one of the conditions described in paragraph
6 (1) of subdivision (c) of Section 366.26 applies, that fact shall
7 constitute a compelling reason for purposes of this subdivision.
8 Only upon that determination may the court order that the child
9 remain in long-term foster care, without holding a hearing pursuant
10 to Section 366.26. The nonminor dependent's legal status as an
11 adult is in and of itself a compelling reason not to hold a hearing
12 pursuant to Section 366.26.

13 (i) If, as authorized by subdivision (h), the court orders a hearing
14 pursuant to Section 366.26, the court shall direct the agency
15 supervising the child and the licensed county adoption agency, or
16 the State Department of Social Services when it is acting as an
17 adoption agency in counties that are not served by a county
18 adoption agency, to prepare an assessment as provided for in
19 subdivision (i) of Section 366.21 or subdivision (b) of Section
20 366.22. A hearing held pursuant to Section 366.26 shall be held
21 no later than 120 days from the date of the 12-month review at
22 which it is ordered, and at that hearing the court shall determine
23 whether adoption, legal guardianship, or long-term foster care is
24 the most appropriate plan for the child. A hearing pursuant to
25 Section 366.26 shall not be ordered if the child is a nonminor
26 dependent. The court may order that a nonminor dependent who
27 otherwise meets the criteria described in Section 11403 remain in
28 long-term foster care.

29 (j) The implementation and operation of the amendments to
30 subdivision (c) enacted at the 2005-06 Regular Session shall be
31 subject to appropriation through the budget process and by phase,
32 as provided in Section 366.35.

33 (k) The reviews conducted pursuant to subdivision (a) or (d)
34 may be conducted earlier than every six months if the court
35 determines that an earlier review is in the best interests of the child
36 or as court rules prescribe.

37 (l) On and after October 1, 2010, at the review hearing that
38 occurs in the six-month period prior to the minor's attaining 18
39 years of age, and at every subsequent review hearing, the report
40 shall describe all of the following:

1 ~~(1) The minor's plans to remain in foster care and plans to meet~~
2 ~~one or more of the criteria as described in Section 11403 to~~
3 ~~continue to receive AFDC-FC benefits.~~

4 ~~(2) The efforts made and assistance provided to the minor by~~
5 ~~the social worker or the probation officer so that the minor will be~~
6 ~~able to meet the criteria.~~

7 ~~(3) Efforts toward completing the items described in~~
8 ~~subparagraph (E) of paragraph (2) of subdivision (a) of Section~~
9 ~~391.~~

10 ~~(m) On and after October 1, 2010, the reviews conducted~~
11 ~~pursuant to subdivisions (e) and (h) for any nonminor dependent~~
12 ~~shall be conducted in a manner that respects the nonminor's status~~
13 ~~as a legal adult, be focused on the goals and services described in~~
14 ~~the youth's transitional independent living case plan, including~~
15 ~~efforts made to maintain connections with caring and permanently~~
16 ~~committed adults, and attended as appropriate by additional~~
17 ~~participants invited by the nonminor dependent. The review shall~~
18 ~~include all the issues in subdivision (e), except paragraph (5) of~~
19 ~~subdivision (e). The county child welfare or probation department,~~
20 ~~or Indian tribe that has entered into an agreement pursuant to~~
21 ~~Section 10553.1 shall prepare and present to the court a report that~~
22 ~~addresses the youth's progress in meeting the goals in the~~
23 ~~transitional independent living case plan and propose modifications~~
24 ~~as necessary to further those goals. The report shall document that~~
25 ~~the nonminor has received all the information and documentation~~
26 ~~described in paragraph (2) of subdivision (e) of Section 391. If the~~
27 ~~court is considering terminating dependency jurisdiction for a~~
28 ~~nonminor dependent it shall first hold a hearing pursuant to Section~~
29 ~~391.~~

30 ~~(n) On and after October 1, 2010, if a review hearing pursuant~~
31 ~~to this section is the last review hearing to be held before the child~~
32 ~~attains 18 years of age, the court shall ensure that the child's~~
33 ~~transitional independent living case plan includes a plan for the~~
34 ~~child to meet one or more of the criteria in Section 11403 so that~~
35 ~~the child can become a nonminor dependent, and that the child has~~
36 ~~been informed of his or her right to seek the termination of~~
37 ~~dependency jurisdiction pursuant to Section 391.~~

38 *SEC. 16. Section 366.21 of the Welfare and Institutions Code,*
39 *as amended by Section 8 of Chapter 287 of the Statutes of 2009,*
40 *is amended to read:*

1 366.21. (a) Every hearing conducted by the juvenile court
2 reviewing the status of a dependent child shall be placed on the
3 appearance calendar. The court shall advise all persons present at
4 the hearing of the date of the future hearing and of their right to
5 be present and represented by counsel.

6 (b) Except as provided in Sections 294 and 295, notice of the
7 hearing shall be provided pursuant to Section 293.

8 (c) At least 10 calendar days prior to the hearing, the social
9 worker shall file a supplemental report with the court regarding
10 the services provided or offered to the parent or legal guardian to
11 enable him or her to assume custody and the efforts made to
12 achieve legal permanence for the child if efforts to reunify fail,
13 including, but not limited to, efforts to maintain relationships
14 between a child who is 10 years of age or older and has been in
15 out-of-home placement for six months or longer and individuals
16 who are important to the child, consistent with the child's best
17 interests; the progress made; and, where relevant, the prognosis
18 for return of the child to the physical custody of his or her parent
19 or legal guardian; and shall make his or her recommendation for
20 disposition. If the child is a member of a sibling group described
21 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
22 361.5, the report and recommendation may also take into account
23 those factors described in subdivision (e) relating to the child's
24 sibling group. If the recommendation is not to return the child to
25 a parent or legal guardian, the report shall specify why the return
26 of the child would be detrimental to the child. The social worker
27 shall provide the parent or legal guardian, counsel for the child,
28 and any court-appointed child advocate with a copy of the report,
29 including his or her recommendation for disposition, at least 10
30 calendar days prior to the hearing. In the case of a child removed
31 from the physical custody of his or her parent or legal guardian,
32 the social worker shall, at least 10 calendar days prior to the
33 hearing, provide a summary of his or her recommendation for
34 disposition to any foster parents, relative caregivers, and certified
35 foster parents who have been approved for adoption by the State
36 Department of Social Services when it is acting as an adoption
37 agency in counties that are not served by a county adoption agency
38 or by a licensed county adoption agency, community care facility,
39 or foster family agency having the physical custody of the child.
40 The social worker shall include a copy of the Judicial Council

1 Caregiver Information Form (JV-290) with the summary of
2 recommendations to the child's foster parents, relative caregivers,
3 or foster parents approved for adoption, in the caregiver's primary
4 language when available, along with information on how to file
5 the form with the court.

6 (d) Prior to any hearing involving a child in the physical custody
7 of a community care facility or a foster family agency that may
8 result in the return of the child to the physical custody of his or
9 her parent or legal guardian, or in adoption or the creation of a
10 legal guardianship, or in the case of an Indian child, in consultation
11 with the child's tribe, tribal customary adoption, the facility or
12 agency shall file with the court a report, or a Judicial Council
13 Caregiver Information Form (JV-290), containing its
14 recommendation for disposition. Prior to the hearing involving a
15 child in the physical custody of a foster parent, a relative caregiver,
16 or a certified foster parent who has been approved for adoption by
17 the State Department of Social Services when it is acting as an
18 adoption agency or by a licensed adoption agency, the foster parent,
19 relative caregiver, or the certified foster parent who has been
20 approved for adoption by the State Department of Social Services
21 when it is acting as an adoption agency in counties that are not
22 served by a county adoption agency or by a licensed county
23 adoption agency, may file with the court a report containing his
24 or her recommendation for disposition. The court shall consider
25 the report and recommendation filed pursuant to this subdivision
26 prior to determining any disposition.

27 (e) At the review hearing held six months after the initial
28 dispositional hearing, but no later than 12 months after the date
29 the child entered foster care as determined in Section 361.49,
30 whichever occurs earlier, the court shall order the return of the
31 child to the physical custody of his or her parent or legal guardian
32 unless the court finds, by a preponderance of the evidence, that
33 the return of the child to his or her parent or legal guardian would
34 create a substantial risk of detriment to the safety, protection, or
35 physical or emotional well-being of the child. The social worker
36 shall have the burden of establishing that detriment. At the hearing,
37 the court shall consider the criminal history, obtained pursuant to
38 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
39 or legal guardian subsequent to the child's removal to the extent
40 that the criminal record is substantially related to the welfare of

1 the child or the parent's or guardian's ability to exercise custody
2 and control regarding his or her child, provided the parent or legal
3 guardian agreed to submit fingerprint images to obtain criminal
4 history information as part of the case plan. The failure of the
5 parent or legal guardian to participate regularly and make
6 substantive progress in court-ordered treatment programs shall be
7 prima facie evidence that return would be detrimental. In making
8 its determination, the court shall review and consider the social
9 worker's report and recommendations and the report and
10 recommendations of any child advocate appointed pursuant to
11 Section 356.5; and shall consider the efforts or progress, or both,
12 demonstrated by the parent or legal guardian and the extent to
13 which he or she availed himself or herself to services provided,
14 taking into account the particular barriers to an incarcerated or
15 institutionalized parent or legal guardian's access to those
16 court-mandated services and ability to maintain contact with his
17 or her child.

18 Regardless of whether the child is returned to a parent or legal
19 guardian, the court shall specify the factual basis for its conclusion
20 that the return would be detrimental or would not be detrimental.
21 The court also shall make appropriate findings pursuant to
22 subdivision (a) of Section 366; and, where relevant, shall order
23 any additional services reasonably believed to facilitate the return
24 of the child to the custody of his or her parent or legal guardian.
25 The court shall also inform the parent or legal guardian that if the
26 child cannot be returned home by the 12-month permanency
27 hearing, a proceeding pursuant to Section 366.26 may be instituted.
28 This section does not apply in a case where, pursuant to Section
29 361.5, the court has ordered that reunification services shall not
30 be provided.

31 If the child was under three years of age on the date of the initial
32 removal, or is a member of a sibling group described in
33 subparagraph (C) of paragraph (1) of subdivision (a) of Section
34 361.5, and the court finds by clear and convincing evidence that
35 the parent failed to participate regularly and make substantive
36 progress in a court-ordered treatment plan, the court may schedule
37 a hearing pursuant to Section 366.26 within 120 days. If, however,
38 the court finds there is a substantial probability that the child, who
39 was under three years of age on the date of initial removal or is a
40 member of a sibling group described in subparagraph (C) of

1 paragraph (1) of subdivision (a) of Section 361.5, may be returned
2 to his or her parent or legal guardian within six months or that
3 reasonable services have not been provided, the court shall continue
4 the case to the 12-month permanency hearing.

5 For the purpose of placing and maintaining a sibling group
6 together in a permanent home, the court, in making its
7 determination to schedule a hearing pursuant to Section 366.26
8 for some or all members of a sibling group, as described in
9 subparagraph (C) of paragraph (1) of subdivision (a) of Section
10 361.5, shall review and consider the social worker's report and
11 recommendations. Factors the report shall address, and the court
12 shall consider, may include, but need not be limited to, whether
13 the sibling group was removed from parental care as a group, the
14 closeness and strength of the sibling bond, the ages of the siblings,
15 the appropriateness of maintaining the sibling group together, the
16 detriment to the child if sibling ties are not maintained, the
17 likelihood of finding a permanent home for the sibling group,
18 whether the sibling group is currently placed together in a
19 preadoptive home or has a concurrent plan goal of legal
20 permanency in the same home, the wishes of each child whose
21 age and physical and emotional condition permits a meaningful
22 response, and the best interest of each child in the sibling group.
23 The court shall specify the factual basis for its finding that it is in
24 the best interest of each child to schedule a hearing pursuant to
25 Section 366.26 in 120 days for some or all of the members of the
26 sibling group.

27 If the child was removed initially under subdivision (g) of
28 Section 300 and the court finds by clear and convincing evidence
29 that the whereabouts of the parent are still unknown, or the parent
30 has failed to contact and visit the child, the court may schedule a
31 hearing pursuant to Section 366.26 within 120 days. The court
32 shall take into account any particular barriers to a parent's ability
33 to maintain contact with his or her child due to the parent's
34 incarceration or institutionalization. If the court finds by clear and
35 convincing evidence that the parent has been convicted of a felony
36 indicating parental unfitness, the court may schedule a hearing
37 pursuant to Section 366.26 within 120 days.

38 If the child had been placed under court supervision with a
39 previously noncustodial parent pursuant to Section 361.2, the court
40 shall determine whether supervision is still necessary. The court

1 may terminate supervision and transfer permanent custody to that
2 parent, as provided for by paragraph (1) of subdivision (b) of
3 Section 361.2.

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

9 If the child is not returned to his or her parent or legal guardian,
10 the court shall determine whether reasonable services that were
11 designed to aid the parent or legal guardian in overcoming the
12 problems that led to the initial removal and the continued custody
13 of the child have been provided or offered to the parent or legal
14 guardian. The court shall order that those services be initiated,
15 continued, or terminated.

16 (f) The permanency hearing shall be held no later than 12
17 months after the date the child entered foster care, as that date is
18 determined pursuant to Section 361.49. At the permanency hearing,
19 the court shall determine the permanent plan for the child, which
20 shall include a determination of whether the child will be returned
21 to the child's home and, if so, when, within the time limits of
22 subdivision (a) of Section 361.5. The court shall order the return
23 of the child to the physical custody of his or her parent or legal
24 guardian unless the court finds, by a preponderance of the evidence,
25 that the return of the child to his or her parent or legal guardian
26 would create a substantial risk of detriment to the safety, protection,
27 or physical or emotional well-being of the child. The social worker
28 shall have the burden of establishing that detriment. At the
29 permanency hearing, the court shall consider the criminal history,
30 obtained pursuant to paragraph (1) of subdivision (f) of Section
31 16504.5, of the parent or legal guardian subsequent to the child's
32 removal to the extent that the criminal record is substantially related
33 to the welfare of the child or the parent or legal guardian's ability
34 to exercise custody and control regarding his or her child, provided
35 that the parent or legal guardian agreed to submit fingerprint images
36 to obtain criminal history information as part of the case plan. The
37 court shall also determine whether reasonable services that were
38 designed to aid the parent or legal guardian to overcome the
39 problems that led to the initial removal and continued custody of
40 the child have been provided or offered to the parent or legal

1 guardian. For each youth 16 years of age and older, the court shall
2 also determine whether services have been made available to assist
3 him or her in making the transition from foster care to independent
4 living. The failure of the parent or legal guardian to participate
5 regularly and make substantive progress in court-ordered treatment
6 programs shall be prima facie evidence that return would be
7 detrimental. In making its determination, the court shall review
8 and consider the social worker's report and recommendations and
9 the report and recommendations of any child advocate appointed
10 pursuant to Section 356.5, shall consider the efforts or progress,
11 or both, demonstrated by the parent or legal guardian and the extent
12 to which he or she availed himself or herself of services provided,
13 taking into account the particular barriers to an incarcerated or
14 institutionalized parent or legal guardian's access to those
15 court-mandated services and ability to maintain contact with his
16 or her child and shall make appropriate findings pursuant to
17 subdivision (a) of Section 366.

18 Regardless of whether the child is returned to his or her parent
19 or legal guardian, the court shall specify the factual basis for its
20 decision. If the child is not returned to a parent or legal guardian,
21 the court shall specify the factual basis for its conclusion that the
22 return would be detrimental. The court also shall make a finding
23 pursuant to subdivision (a) of Section 366. If the child is not
24 returned to his or her parent or legal guardian, the court shall
25 consider, and state for the record, in-state and out-of-state
26 placement options. If the child is placed out of the state, the court
27 shall make a determination whether the out-of-state placement
28 continues to be appropriate and in the best interests of the child.

29 (g) If the time period in which the court-ordered services were
30 provided has met or exceeded the time period set forth in
31 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
32 of Section 361.5, as appropriate, and a child is not returned to the
33 custody of a parent or legal guardian at the permanency hearing
34 held pursuant to subdivision (f), the court shall do one of the
35 following:

36 (1) Continue the case for up to six months for a permanency
37 review hearing, provided that the hearing shall occur within 18
38 months of the date the child was originally taken from the physical
39 custody of his or her parent or legal guardian. The court shall
40 continue the case only if it finds that there is a substantial

1 probability that the child will be returned to the physical custody
2 of his or her parent or legal guardian and safely maintained in the
3 home within the extended period of time or that reasonable services
4 have not been provided to the parent or legal guardian. For the
5 purposes of this section, in order to find a substantial probability
6 that the child will be returned to the physical custody of his or her
7 parent or legal guardian and safely maintained in the home within
8 the extended period of time, the court shall be required to find all
9 of the following:

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

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

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

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

25 The court shall inform the parent or legal guardian that if the
26 child cannot be returned home by the next permanency review
27 hearing, a proceeding pursuant to Section 366.26 may be instituted.
28 The court may not order that a hearing pursuant to Section 366.26
29 be held unless there is clear and convincing evidence that
30 reasonable services have been provided or offered to the parent or
31 legal guardian.

32 (2) Order that a hearing be held within 120 days, pursuant to
33 Section 366.26, but only if the court does not continue the case to
34 the permanency planning review hearing and there is clear and
35 convincing evidence that reasonable services have been provided
36 or offered to the parents or legal guardians. *A hearing pursuant to*
37 *Section 366.26 shall not be ordered if the child is a nonminor*
38 *dependent.*

39 (3) Order that the child remain in long-term foster care, but only
40 if the court finds by clear and convincing evidence, based upon

1 the evidence already presented to it, including a recommendation
2 by the State Department of Social Services when it is acting as an
3 adoption agency in counties that are not served by a county
4 adoption agency or by a licensed county adoption agency, that
5 there is a compelling reason for determining that a hearing held
6 pursuant to Section 366.26 is not in the best interest of the child
7 because the child is not a proper subject for adoption and has no
8 one willing to accept legal guardianship. For purposes of this
9 section, a recommendation by the State Department of Social
10 Services when it is acting as an adoption agency in counties that
11 are not served by a county adoption agency or by a licensed county
12 adoption agency that adoption is not in the best interest of the child
13 shall constitute a compelling reason for the court's determination.
14 That recommendation shall be based on the present circumstances
15 of the child and ~~may~~ shall not preclude a different recommendation
16 at a later date if the child's circumstances change. *The nonminor
17 dependent's legal status as an adult is in and of itself a compelling
18 reason not to hold a hearing pursuant to Section 366.26. The court
19 may order that a nonminor dependent who otherwise meets the
20 criteria described in Section 11403 remain in long-term foster
21 care.*

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

29 If the child is not returned to his or her parent or legal guardian,
30 the court shall consider, and state for the record, in-state and
31 out-of-state options for permanent placement. If the child is placed
32 out of the state, the court shall make a determination whether the
33 out-of-state placement continues to be appropriate and in the best
34 interests of the child.

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

1 orders to enable the child to maintain relationships with individuals,
2 other than the child’s siblings, who are important to the child,
3 consistent with the child’s best interests.

4 (i) (1) Whenever a court orders that a hearing pursuant to
5 Section 366.26, including, when, in consultation with the child’s
6 tribe, tribal customary adoption is recommended, shall be held, it
7 shall direct the agency supervising the child and the licensed county
8 adoption agency, or the State Department of Social Services when
9 it is acting as an adoption agency in counties that are not served
10 by a county adoption agency, to prepare an assessment that shall
11 include:

12 (A) Current search efforts for an absent parent or parents or
13 legal guardians.

14 (B) A review of the amount of and nature of any contact between
15 the child and his or her parents or legal guardians and other
16 members of his or her extended family since the time of placement.
17 Although the extended family of each child shall be reviewed on
18 a case-by-case basis, “extended family” for the purpose of this
19 subparagraph shall include, but not be limited to, the child’s
20 siblings, grandparents, aunts, and uncles.

21 (C) An evaluation of the child’s medical, developmental,
22 scholastic, mental, and emotional status.

23 (D) A preliminary assessment of the eligibility and commitment
24 of any identified prospective adoptive parent or legal guardian,
25 including the prospective tribal customary adoptive parent,
26 particularly the caretaker, to include a social history including
27 screening for criminal records and prior referrals for child abuse
28 or neglect, the capability to meet the child’s needs, and the
29 understanding of the legal and financial rights and responsibilities
30 of adoption and guardianship. If a proposed guardian is a relative
31 of the minor, ~~and the relative was assessed for foster care placement~~
32 ~~of the minor prior to January 1, 1998,~~ the assessment shall also
33 consider, but need not be limited to, all of the factors specified in
34 subdivision (a) of Section 361.3 *and in Section 361.4.*

35 (E) The relationship of the child to any identified prospective
36 adoptive parent or legal guardian, the duration and character of
37 the relationship, the *degree of attachment of the child to the*
38 *prospective relative guardian or adoptive parent, the relative’s or*
39 *adoptive parent’s strong commitment to caring permanently for*
40 *the child, the motivation for seeking adoption or guardianship, and*

1 a statement from the child concerning placement and the adoption
2 or guardianship, *and whether the child, if over 12 years of age,*
3 *has been consulted about the proposed relative guardianship*
4 *arrangements*, unless the child's age or physical, emotional, or
5 other condition precludes his or her meaningful response, and if
6 so, a description of the condition.

7 (F) A description of efforts to be made to identify a prospective
8 adoptive parent or legal guardian, including, but not limited to,
9 child-specific recruitment and listing on an adoption exchange
10 within the state or out of the state.

11 (G) An analysis of the likelihood that the child will be adopted
12 if parental rights are terminated.

13 (H) In the case of an Indian child, in addition to subparagraphs
14 (A) to (G), inclusive, an assessment of the likelihood that the child
15 will be adopted, when, in consultation with the child's tribe, a
16 customary tribal adoption, as defined in Section 366.24, is
17 recommended. If tribal customary adoption is recommended, the
18 assessment shall include an analysis of both of the following:

19 (i) Whether tribal customary adoption would or would not be
20 detrimental to the Indian child and the reasons for reaching that
21 conclusion.

22 (ii) Whether the Indian child cannot or should not be returned
23 to the home of the Indian parent or Indian custodian and the reasons
24 for reaching that conclusion.

25 (2) (A) A relative caregiver's preference for legal guardianship
26 over adoption, if it is due to circumstances that do not include an
27 unwillingness to accept legal or financial responsibility for the
28 child, shall not constitute the sole basis for recommending removal
29 of the child from the relative caregiver for purposes of adoptive
30 placement.

31 (B) A relative caregiver shall be given information regarding
32 the permanency options of guardianship and adoption, including
33 the long-term benefits and consequences of each option, prior to
34 establishing legal guardianship or pursuing adoption.

35 (j) If, at any hearing held pursuant to Section 366.26, a
36 guardianship is established for the minor with ~~a relative~~ *an*
37 *approved relative caregiver*, and juvenile court dependency is
38 subsequently dismissed, the ~~relative~~ *minor* shall be eligible for aid
39 under the Kin-GAP Program, as provided for in Article 4.5
40 (commencing with Section 11360) *or Article 4.7 (commencing*

1 *with Section 11385), as applicable, of Chapter 2 of Part 3 of*
2 *Division 9.*

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

9 (l) For purposes of this section, evidence of any of the following
10 circumstances may not, in and of itself, be deemed a failure to
11 provide or offer reasonable services:

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

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

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

19 (m) The implementation and operation of the amendments to
20 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
21 shall be subject to appropriation through the budget process and
22 by phase, as provided in Section 366.35.

23 (n) This section shall remain in effect only until January 1, 2014,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2014, deletes or extends that date.

26 *SEC. 17. Section 366.21 of the Welfare and Institutions Code,*
27 *as added by Section 9 of Chapter 287 of the Statutes of 2009, is*
28 *amended to read:*

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

34 (b) Except as provided in Sections 294 and 295, notice of the
35 hearing shall be provided pursuant to Section 293.

36 (c) At least 10 calendar days prior to the hearing, the social
37 worker shall file a supplemental report with the court regarding
38 the services provided or offered to the parent or legal guardian to
39 enable him or her to assume custody and the efforts made to
40 achieve legal permanence for the child if efforts to reunify fail,

1 including, but not limited to, efforts to maintain relationships
2 between a child who is 10 years of age or older and has been in
3 out-of-home placement for six months or longer and individuals
4 who are important to the child, consistent with the child's best
5 interests; the progress made; and, where relevant, the prognosis
6 for return of the child to the physical custody of his or her parent
7 or legal guardian; and shall make his or her recommendation for
8 disposition. If the child is a member of a sibling group described
9 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
10 361.5, the report and recommendation may also take into account
11 those factors described in subdivision (e) relating to the child's
12 sibling group. If the recommendation is not to return the child to
13 a parent or legal guardian, the report shall specify why the return
14 of the child would be detrimental to the child. The social worker
15 shall provide the parent or legal guardian, counsel for the child,
16 and any court-appointed child advocate with a copy of the report,
17 including his or her recommendation for disposition, at least 10
18 calendar days prior to the hearing. In the case of a child removed
19 from the physical custody of his or her parent or legal guardian,
20 the social worker shall, at least 10 calendar days prior to the
21 hearing, provide a summary of his or her recommendation for
22 disposition to any foster parents, relative caregivers, and certified
23 foster parents who have been approved for adoption by the State
24 Department of Social Services when it is acting as an adoption
25 agency in counties that are not served by a county adoption agency
26 or by a licensed county adoption agency, community care facility,
27 or foster family agency having the physical custody of the child.
28 The social worker shall include a copy of the Judicial Council
29 Caregiver Information Form (JV-290) with the summary of
30 recommendations to the child's foster parents, relative caregivers,
31 or foster parents approved for adoption, in the caregiver's primary
32 language when available, along with information on how to file
33 the form with the court.

34 (d) Prior to any hearing involving a child in the physical custody
35 of a community care facility or a foster family agency that may
36 result in the return of the child to the physical custody of his or
37 her parent or legal guardian, or in adoption or the creation of a
38 legal guardianship, the facility or agency shall file with the court
39 a report, or a Judicial Council Caregiver Information Form
40 (JV-290), containing its recommendation for disposition. Prior to

1 the hearing involving a child in the physical custody of a foster
2 parent, a relative caregiver, or a certified foster parent who has
3 been approved for adoption by the State Department of Social
4 Services when it is acting as an adoption agency or by a licensed
5 adoption agency, the foster parent, relative caregiver, or the
6 certified foster parent who has been approved for adoption by the
7 State Department of Social Services when it is acting as an
8 adoption agency in counties that are not served by a county
9 adoption agency or by a licensed county adoption agency, may
10 file with the court a report containing his or her recommendation
11 for disposition. The court shall consider the report and
12 recommendation filed pursuant to this subdivision prior to
13 determining any disposition.

14 (e) At the review hearing held six months after the initial
15 dispositional hearing, but no later than 12 months after the date
16 the child entered foster care as determined in Section 361.49,
17 whichever occurs earlier, the court shall order the return of the
18 child to the physical custody of his or her parent or legal guardian
19 unless the court finds, by a preponderance of the evidence, that
20 the return of the child to his or her parent or legal guardian would
21 create a substantial risk of detriment to the safety, protection, or
22 physical or emotional well-being of the child. The social worker
23 shall have the burden of establishing that detriment. At the hearing,
24 the court shall consider the criminal history, obtained pursuant to
25 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
26 or legal guardian subsequent to the child's removal to the extent
27 that the criminal record is substantially related to the welfare of
28 the child or the parent's or guardian's ability to exercise custody
29 and control regarding his or her child, provided the parent or legal
30 guardian agreed to submit fingerprint images to obtain criminal
31 history information as part of the case plan. The failure of the
32 parent or legal guardian to participate regularly and make
33 substantive progress in court-ordered treatment programs shall be
34 prima facie evidence that return would be detrimental. In making
35 its determination, the court shall review and consider the social
36 worker's report and recommendations and the report and
37 recommendations of any child advocate appointed pursuant to
38 Section 356.5; and shall consider the efforts or progress, or both,
39 demonstrated by the parent or legal guardian and the extent to
40 which he or she availed himself or herself to services provided,

1 taking into account the particular barriers to an incarcerated or
2 institutionalized parent or legal guardian's access to those
3 court-mandated services and ability to maintain contact with his
4 or her child.

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

18 If the child was under three years of age on the date of the initial
19 removal, or is a member of a sibling group described in
20 subparagraph (C) of paragraph (1) of subdivision (a) of Section
21 361.5, and the court finds by clear and convincing evidence that
22 the parent failed to participate regularly and make substantive
23 progress in a court-ordered treatment plan, the court may schedule
24 a hearing pursuant to Section 366.26 within 120 days. If, however,
25 the court finds there is a substantial probability that the child, who
26 was under three years of age on the date of initial removal or is a
27 member of a sibling group described in subparagraph (C) of
28 paragraph (1) of subdivision (a) of Section 361.5, may be returned
29 to his or her parent or legal guardian within six months or that
30 reasonable services have not been provided, the court shall continue
31 the case to the 12-month permanency hearing.

32 For the purpose of placing and maintaining a sibling group
33 together in a permanent home, the court, in making its
34 determination to schedule a hearing pursuant to Section 366.26
35 for some or all members of a sibling group, as described in
36 subparagraph (C) of paragraph (1) of subdivision (a) of Section
37 361.5, shall review and consider the social worker's report and
38 recommendations. Factors the report shall address, and the court
39 shall consider, may include, but need not be limited to, whether
40 the sibling group was removed from parental care as a group, the

1 closeness and strength of the sibling bond, the ages of the siblings,
2 the appropriateness of maintaining the sibling group together, the
3 detriment to the child if sibling ties are not maintained, the
4 likelihood of finding a permanent home for the sibling group,
5 whether the sibling group is currently placed together in a
6 preadoptive home or has a concurrent plan goal of legal
7 permanency in the same home, the wishes of each child whose
8 age and physical and emotional condition permits a meaningful
9 response, and the best interest of each child in the sibling group.
10 The court shall specify the factual basis for its finding that it is in
11 the best interest of each child to schedule a hearing pursuant to
12 Section 366.26 in 120 days for some or all of the members of the
13 sibling group.

14 If the child was removed initially under subdivision (g) of
15 Section 300 and the court finds by clear and convincing evidence
16 that the whereabouts of the parent are still unknown, or the parent
17 has failed to contact and visit the child, the court may schedule a
18 hearing pursuant to Section 366.26 within 120 days. The court
19 shall take into account any particular barriers to a parent's ability
20 to maintain contact with his or her child due to the parent's
21 incarceration or institutionalization. If the court finds by clear and
22 convincing evidence that the parent has been convicted of a felony
23 indicating parental unfitness, the court may schedule a hearing
24 pursuant to Section 366.26 within 120 days.

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

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

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

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

3 (f) The permanency hearing shall be held no later than 12
4 months after the date the child entered foster care, as that date is
5 determined pursuant to Section 361.49. At the permanency hearing,
6 the court shall determine the permanent plan for the child, which
7 shall include a determination of whether the child will be returned
8 to the child's home and, if so, when, within the time limits of
9 subdivision (a) of Section 361.5. The court shall order the return
10 of the child to the physical custody of his or her parent or legal
11 guardian unless the court finds, by a preponderance of the evidence,
12 that the return of the child to his or her parent or legal guardian
13 would create a substantial risk of detriment to the safety, protection,
14 or physical or emotional well-being of the child. The social worker
15 shall have the burden of establishing that detriment. At the
16 permanency hearing, the court shall consider the criminal history,
17 obtained pursuant to paragraph (1) of subdivision (f) of Section
18 16504.5, of the parent or legal guardian subsequent to the child's
19 removal to the extent that the criminal record is substantially related
20 to the welfare of the child or the parent or legal guardian's ability
21 to exercise custody and control regarding his or her child, provided
22 that the parent or legal guardian agreed to submit fingerprint images
23 to obtain criminal history information as part of the case plan. The
24 court shall also determine whether reasonable services that were
25 designed to aid the parent or legal guardian to overcome the
26 problems that led to the initial removal and continued custody of
27 the child have been provided or offered to the parent or legal
28 guardian. For each youth 16 years of age and older, the court shall
29 also determine whether services have been made available to assist
30 him or her in making the transition from foster care to independent
31 living. The failure of the parent or legal guardian to participate
32 regularly and make substantive progress in court-ordered treatment
33 programs shall be prima facie evidence that return would be
34 detrimental. In making its determination, the court shall review
35 and consider the social worker's report and recommendations and
36 the report and recommendations of any child advocate appointed
37 pursuant to Section 356.5, shall consider the efforts or progress,
38 or both, demonstrated by the parent or legal guardian and the extent
39 to which he or she availed himself or herself of services provided,
40 taking into account the particular barriers to an incarcerated or

1 institutionalized parent or legal guardian's access to those
2 court-mandated services and ability to maintain contact with his
3 or her child and shall make appropriate findings pursuant to
4 subdivision (a) of Section 366.

5 Regardless of whether the child is returned to his or her parent
6 or legal guardian, the court shall specify the factual basis for its
7 decision. If the child is not returned to a parent or legal guardian,
8 the court shall specify the factual basis for its conclusion that the
9 return would be detrimental. The court also shall make a finding
10 pursuant to subdivision (a) of Section 366. If the child is not
11 returned to his or her parent or legal guardian, the court shall
12 consider, and state for the record, in-state and out-of-state
13 placement options. If the child is placed out of the state, the court
14 shall make a determination whether the out-of-state placement
15 continues to be appropriate and in the best interests of the child.

16 (g) If the time period in which the court-ordered services were
17 provided has met or exceeded the time period set forth in
18 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
19 of Section 361.5, as appropriate, and a child is not returned to the
20 custody of a parent or legal guardian at the permanency hearing
21 held pursuant to subdivision (f), the court shall do one of the
22 following:

23 (1) Continue the case for up to six months for a permanency
24 review hearing, provided that the hearing shall occur within 18
25 months of the date the child was originally taken from the physical
26 custody of his or her parent or legal guardian. The court shall
27 continue the case only if it finds that there is a substantial
28 probability that the child will be returned to the physical custody
29 of his or her parent or legal guardian and safely maintained in the
30 home within the extended period of time or that reasonable services
31 have not been provided to the parent or legal guardian. For the
32 purposes of this section, in order to find a substantial probability
33 that the child will be returned to the physical custody of his or her
34 parent or legal guardian and safely maintained in the home within
35 the extended period of time, the court shall be required to find all
36 of the following:

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

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

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

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

14 The court shall inform the parent or legal guardian that if the
15 child cannot be returned home by the next permanency review
16 hearing, a proceeding pursuant to Section 366.26 may be instituted.
17 The court may not order that a hearing pursuant to Section 366.26
18 be held unless there is clear and convincing evidence that
19 reasonable services have been provided or offered to the parent or
20 legal guardian.

21 (2) Order that a hearing be held within 120 days, pursuant to
22 Section 366.26, but only if the court does not continue the case to
23 the permanency planning review hearing and there is clear and
24 convincing evidence that reasonable services have been provided
25 or offered to the parents or legal guardians. *A hearing pursuant to*
26 *Section 366.26 shall not be ordered if the child is a nonminor*
27 *dependent.*

28 (3) Order that the child remain in long-term foster care, but only
29 if the court finds by clear and convincing evidence, based upon
30 the evidence already presented to it, including a recommendation
31 by the State Department of Social Services when it is acting as an
32 adoption agency in counties that are not served by a county
33 adoption agency or by a licensed county adoption agency, that
34 there is a compelling reason for determining that a hearing held
35 pursuant to Section 366.26 is not in the best interest of the child
36 because the child is not a proper subject for adoption and has no
37 one willing to accept legal guardianship. For purposes of this
38 section, a recommendation by the State Department of Social
39 Services when it is acting as an adoption agency in counties that
40 are not served by a county adoption agency or by a licensed county

1 adoption agency that adoption is not in the best interest of the child
2 shall constitute a compelling reason for the court's determination.
3 That recommendation shall be based on the present circumstances
4 of the child and ~~may~~ shall not preclude a different recommendation
5 at a later date if the child's circumstances change. *The nonminor
6 dependent's legal status as an adult is in and of itself a compelling
7 reason not to hold a hearing pursuant to Section 366.26. The court
8 may order that a nonminor dependent who otherwise meets the
9 criteria described in Section 11403 remain in long-term foster
10 care.*

11 If the court orders that a child who is 10 years of age or older
12 remain in long-term foster care, the court shall determine whether
13 the agency has made reasonable efforts to maintain the child's
14 relationships with individuals other than the child's siblings who
15 are important to the child, consistent with the child's best interests,
16 and may make any appropriate order to ensure that those
17 relationships are maintained.

18 If the child is not returned to his or her parent or legal guardian,
19 the court shall consider, and state for the record, in-state and
20 out-of-state options for permanent placement. If the child is placed
21 out of the state, the court shall make a determination whether the
22 out-of-state placement continues to be appropriate and in the best
23 interests of the child.

24 (h) In any case in which the court orders that a hearing pursuant
25 to Section 366.26 shall be held, it shall also order the termination
26 of reunification services to the parent or legal guardian. The court
27 shall continue to permit the parent or legal guardian to visit the
28 child pending the hearing unless it finds that visitation would be
29 detrimental to the child. The court shall make any other appropriate
30 orders to enable the child to maintain relationships with individuals,
31 other than the child's siblings, who are important to the child,
32 consistent with the child's best interests.

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

39 (A) Current search efforts for an absent parent or parents or
40 legal guardians.

1 (B) A review of the amount of and nature of any contact between
2 the child and his or her parents or legal guardians and other
3 members of his or her extended family since the time of placement.
4 Although the extended family of each child shall be reviewed on
5 a case-by-case basis, “extended family” for the purpose of this
6 subparagraph shall include, but not be limited to, the child’s
7 siblings, grandparents, aunts, and uncles.

8 (C) An evaluation of the child’s medical, developmental,
9 scholastic, mental, and emotional status.

10 (D) A preliminary assessment of the eligibility and commitment
11 of any identified prospective adoptive parent or legal guardian,
12 particularly the caretaker, to include a social history including
13 screening for criminal records and prior referrals for child abuse
14 or neglect, the capability to meet the child’s needs, and the
15 understanding of the legal and financial rights and responsibilities
16 of adoption and guardianship. If a proposed guardian is a relative
17 of the minor, ~~and the relative was assessed for foster care placement~~
18 ~~of the minor prior to January 1, 1998~~, the assessment shall also
19 consider, but need not be limited to, all of the factors specified in
20 subdivision (a) of Section 361.3 *and in Section 361.4*.

21 (E) The relationship of the child to any identified prospective
22 adoptive parent or legal guardian, the duration and character of
23 the relationship, the *degree of attachment of the child to the*
24 *prospective relative guardian or adoptive parent, the relative’s or*
25 *adoptive parent’s strong commitment to caring permanently for*
26 *the child, the motivation for seeking adoption or guardianship, and*
27 *a statement from the child concerning placement and the adoption*
28 *or guardianship, and whether the child, if over 12 years of age,*
29 *has been consulted about the proposed relative guardianship*
30 *arrangements, unless the child’s age or physical, emotional, or*
31 *other condition precludes his or her meaningful response, and if*
32 *so, a description of the condition.*

33 (F) A description of efforts to be made to identify a prospective
34 adoptive parent or legal guardian, including, but not limited to,
35 child-specific recruitment and listing on an adoption exchange
36 within the state or out of the state.

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

39 (2) (A) A relative caregiver’s preference for legal guardianship
40 over adoption, if it is due to circumstances that do not include an

1 unwillingness to accept legal or financial responsibility for the
2 child, shall not constitute the sole basis for recommending removal
3 of the child from the relative caregiver for purposes of adoptive
4 placement.

5 (B) A relative caregiver shall be given information regarding
6 the permanency options of guardianship and adoption, including
7 the long-term benefits and consequences of each option, prior to
8 establishing legal guardianship or pursuing adoption.

9 (j) If, at any hearing held pursuant to Section 366.26, a
10 guardianship is established for the minor with a ~~relative an~~
11 *approved relative caregiver*, and juvenile court dependency is
12 subsequently dismissed, the ~~relative minor~~ shall be eligible for aid
13 under the Kin-GAP Program, as provided for in Article 4.5
14 (commencing with Section 11360) or Article 4.7 (commencing
15 with Section 11385), as applicable, of Chapter 2 of Part 3 of
16 Division 9.

17 (k) As used in this section, “relative” means an adult who is
18 related to the minor by blood, adoption, or affinity within the fifth
19 degree of kinship, including stepparents, stepsiblings, and all
20 relatives whose status is preceded by the words “great,”
21 “great-great,” or “grand,” or the spouse of any of those persons
22 even if the marriage was terminated by death or dissolution.

23 (l) For purposes of this section, evidence of any of the following
24 circumstances may not, in and of itself, be deemed a failure to
25 provide or offer reasonable services:

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

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

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

33 (m) The implementation and operation of the amendments to
34 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
35 shall be subject to appropriation through the budget process and
36 by phase, as provided in Section 366.35.

37 (n) This section shall become operative on January 1, 2014.

38 *SEC. 18. Section 366.22 of the Welfare and Institutions Code,*
39 *as amended by Section 10 of Chapter 287 of the Statutes of 2009,*
40 *is amended to read:*

1 366.22. (a) When a case has been continued pursuant to
2 paragraph (1) of subdivision (g) of Section 366.21, the permanency
3 review hearing shall occur within 18 months after the date the
4 child was originally removed from the physical custody of his or
5 her parent or legal guardian. The court shall order the return of the
6 child to the physical custody of his or her parent or legal guardian
7 unless the court finds, by a preponderance of the evidence, that
8 the return of the child to his or her parent or legal guardian would
9 create a substantial risk of detriment to the safety, protection, or
10 physical or emotional well-being of the child. The social worker
11 shall have the burden of establishing that detriment. At the
12 permanency review hearing, the court shall consider the criminal
13 history, obtained pursuant to paragraph (1) of subdivision (f) of
14 Section 16504.5, of the parent or legal guardian subsequent to the
15 child's removal, to the extent that the criminal record is
16 substantially related to the welfare of the child or the parent's or
17 legal guardian's ability to exercise custody and control regarding
18 his or her child, provided that the parent or legal guardian agreed
19 to submit fingerprint images to obtain criminal history information
20 as part of the case plan. The failure of the parent or legal guardian
21 to participate regularly and make substantive progress in
22 court-ordered treatment programs shall be prima facie evidence
23 that return would be detrimental. In making its determination, the
24 court shall review and consider the social worker's report and
25 recommendations and the report and recommendations of any child
26 advocate appointed pursuant to Section 356.5; shall consider the
27 efforts or progress, or both, demonstrated by the parent or legal
28 guardian and the extent to which he or she availed himself or
29 herself of services provided, taking into account the particular
30 barriers of an incarcerated or institutionalized parent or legal
31 guardian's access to those court-mandated services and ability to
32 maintain contact with his or her child; and shall make appropriate
33 findings pursuant to subdivision (a) of Section 366.

34 Whether or not the child is returned to his or her parent or legal
35 guardian, the court shall specify the factual basis for its decision.
36 If the child is not returned to a parent or legal guardian, the court
37 shall specify the factual basis for its conclusion that return would
38 be detrimental. If the child is not returned to his or her parent or
39 legal guardian, the court shall consider, and state for the record,
40 in-state and out-of-state options for the child's permanent

1 placement. If the child is placed out of the state, the court shall
2 make a determination whether the out-of-state placement continues
3 to be appropriate and in the best interests of the child.

4 Unless the conditions in subdivision (b) are met and the child is
5 not returned to a parent or legal guardian at the permanency review
6 hearing, the court shall order that a hearing be held pursuant to
7 Section 366.26 in order to determine whether adoption, or, in the
8 case of an Indian child, in consultation with the child's tribe, tribal
9 customary adoption, guardianship, or long-term foster care is the
10 most appropriate plan for the child. *A hearing pursuant to Section*
11 *366.26 shall not be ordered if the child is a nonminor dependent.*
12 However, if the court finds by clear and convincing evidence,
13 based on the evidence already presented to it, including a
14 recommendation by the State Department of Social Services when
15 it is acting as an adoption agency in counties that are not served
16 by a county adoption agency or by a licensed county adoption
17 agency, that there is a compelling reason, as described in paragraph
18 (3) of subdivision (g) of Section 366.21, for determining that a
19 hearing held under Section 366.26 is not in the best interest of the
20 child because the child is not a proper subject for adoption and has
21 no one willing to accept legal guardianship, then the court may,
22 only under these circumstances, order that the child remain in
23 *long-term foster care. The nonminor dependent's legal status as*
24 *an adult is in and of itself a compelling reason not to hold a*
25 *hearing pursuant to Section 366.26. The court may order that a*
26 *nonminor dependent who otherwise meets the criteria described*
27 *in Section 11403 remain in long-term foster care. If the court orders*
28 *that a child who is 10 years of age or older remain in long-term*
29 *foster care, the court shall determine whether the agency has made*
30 *reasonable efforts to maintain the child's relationships with*
31 *individuals other than the child's siblings who are important to the*
32 *child, consistent with the child's best interests, and may make any*
33 *appropriate order to ensure that those relationships are maintained.*
34 The hearing shall be held no later than 120 days from the date of
35 the permanency review hearing. The court shall also order
36 termination of reunification services to the parent or legal guardian.
37 The court shall continue to permit the parent or legal guardian to
38 visit the child unless it finds that visitation would be detrimental
39 to the child. The court shall determine whether reasonable services
40 have been offered or provided to the parent or legal guardian. For

1 purposes of this subdivision, evidence of any of the following
2 circumstances shall not, in and of themselves, be deemed a failure
3 to provide or offer reasonable services:

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

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

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

11 (b) If the child is not returned to a parent or legal guardian at
12 the permanency review hearing and the court determines by clear
13 and convincing evidence that the best interests of the child would
14 be met by the provision of additional reunification services to a
15 parent or legal guardian who is making significant and consistent
16 progress in a substance abuse treatment program, or a parent
17 recently discharged from incarceration or institutionalization and
18 making significant and consistent progress in establishing a safe
19 home for the child's return, the court may continue the case for
20 up to six months for a subsequent permanency review hearing,
21 provided that the hearing shall occur within 24 months of the date
22 the child was originally taken from the physical custody of his or
23 her parent or legal guardian. The court shall continue the case only
24 if it finds that there is a substantial probability that the child will
25 be returned to the physical custody of his or her parent or legal
26 guardian and safely maintained in the home within the extended
27 period of time or that reasonable services have not been provided
28 to the parent or legal guardian. For the purposes of this section, in
29 order to find a substantial probability that the child will be returned
30 to the physical custody of his or her parent or legal guardian and
31 safely maintained in the home within the extended period of time,
32 the court shall be required to find all of the following:

33 (1) That the parent or legal guardian has consistently and
34 regularly contacted and visited with the child.

35 (2) That the parent or legal guardian has made significant and
36 consistent progress in the prior 18 months in resolving problems
37 that led to the child's removal from the home.

38 (3) The parent or legal guardian has demonstrated the capacity
39 and ability both to complete the objectives of his or her substance
40 abuse treatment plan as evidenced by reports from a substance

1 abuse provider as applicable, or complete a treatment plan
2 postdischarge from incarceration or institutionalization, and to
3 provide for the child’s safety, protection, physical and emotional
4 well-being, and special needs.

5 For purposes of this subdivision, the court’s decision to continue
6 the case based on a finding or substantial probability that the child
7 will be returned to the physical custody of his or her parent or legal
8 guardian is a compelling reason for determining that a hearing
9 held pursuant to Section 366.26 is not in the best interests of the
10 child.

11 The court shall inform the parent or legal guardian that if the
12 child cannot be returned home by the subsequent permanency
13 review hearing, a proceeding pursuant to Section 366.26 may be
14 instituted. The court may not order that a hearing pursuant to
15 Section 366.26 be held unless there is clear and convincing
16 evidence that reasonable services have been provided or offered
17 to the parent or legal guardian.

18 (c) (1) Whenever a court orders that a hearing pursuant to
19 Section 366.26, including when a tribal customary adoption is
20 recommended, shall be held, it shall direct the agency supervising
21 the child and the licensed county adoption agency, or the State
22 Department of Social Services when it is acting as an adoption
23 agency in counties that are not served by a county adoption agency,
24 to prepare an assessment that shall include:

25 (A) Current search efforts for an absent parent or parents.

26 (B) A review of the amount of and nature of any contact between
27 the child and his or her parents and other members of his or her
28 extended family since the time of placement. Although the
29 extended family of each child shall be reviewed on a case-by-case
30 basis, “extended family” for the purposes of this subparagraph
31 shall include, but not be limited to, the child’s siblings,
32 grandparents, aunts, and uncles.

33 (C) An evaluation of the child’s medical, developmental,
34 scholastic, mental, and emotional status.

35 (D) A preliminary assessment of the eligibility and commitment
36 of any identified prospective adoptive parent or legal guardian,
37 particularly the caretaker, to include a social history including
38 screening for criminal records and prior referrals for child abuse
39 or neglect, the capability to meet the child’s needs, and the
40 understanding of the legal and financial rights and responsibilities

1 of adoption and guardianship. If a proposed legal guardian is a
2 relative of the minor, ~~and the relative was assessed for foster care~~
3 ~~placement of the minor prior to January 1, 1998,~~ the assessment
4 shall also consider, but need not be limited to, all of the factors
5 specified in subdivision (a) of Section 361.3 *and Section 361.4.*

6 (E) The relationship of the child to any identified prospective
7 adoptive parent or legal guardian, the duration and character of
8 the relationship, the *degree of attachment of the child to the*
9 *prospective relative guardian or adoptive parent, the relative's or*
10 *adoptive parent's strong commitment to caring permanently for*
11 *the child, the motivation for seeking adoption or legal guardianship,*
12 ~~and~~ a statement from the child concerning placement and the
13 adoption or legal guardianship, *and whether the child, if over 12*
14 *years of age, has been consulted about the proposed relative*
15 *guardianship arrangements,* unless the child's age or physical,
16 emotional, or other condition precludes his or her meaningful
17 response, and if so, a description of the condition.

18 (F) An analysis of the likelihood that the child will be adopted
19 if parental rights are terminated.

20 (G) In the case of an Indian child, in addition to subparagraphs
21 (A) to (F), inclusive, an assessment of the likelihood that the child
22 will be adopted, when, in consultation with the child's tribe, a
23 customary tribal adoption, as defined in Section 366.24, is
24 recommended. If tribal customary adoption is recommended, the
25 assessment shall include an analysis of both of the following:

26 (i) Whether tribal customary adoption would or would not be
27 detrimental to the Indian child and the reasons for reaching that
28 conclusion.

29 (ii) Whether the Indian child cannot or should not be returned
30 to the home of the Indian parent or Indian custodian and the reasons
31 for reaching that conclusion.

32 (2) (A) A relative caregiver's preference for legal guardianship
33 over adoption, if it is due to circumstances that do not include an
34 unwillingness to accept legal or financial responsibility for the
35 child, shall not constitute the sole basis for recommending removal
36 of the child from the relative caregiver for purposes of adoptive
37 placement.

38 (B) A relative caregiver shall be given information regarding
39 the permanency options of guardianship and adoption, including

1 the long-term benefits and consequences of each option, prior to
2 establishing legal guardianship or pursuing adoption.

3 (d) This section shall become operative January 1, 1999. If at
4 any hearing held pursuant to Section 366.26, a legal guardianship
5 is established for the minor with a relative *an approved relative*
6 *caregiver*, and juvenile court dependency is subsequently
7 dismissed, the relative shall be eligible for aid under the Kin-GAP
8 Program, as provided for in Article 4.5 (commencing with Section
9 11360) *or Article 4.7 (commencing with Section 11385), as*
10 *applicable*, of Chapter 2 of Part 3 of Division 9.

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

17 (f) The implementation and operation of the amendments to
18 subdivision (a) enacted at the 2005–06 Regular Session shall be
19 subject to appropriation through the budget process and by phase,
20 as provided in Section 366.35.

21 (g) This section shall remain in effect only until January 1, 2014,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2014, deletes or extends that date.

24 *SEC. 19. Section 366.22 of the Welfare and Institutions Code,*
25 *as added by Section 11 of Chapter 287 of the Statutes of 2009, is*
26 *amended to read:*

27 366.22. (a) When a case has been continued pursuant to
28 paragraph (1) of subdivision (g) of Section 366.21, the permanency
29 review hearing shall occur within 18 months after the date the
30 child was originally removed from the physical custody of his or
31 her parent or legal guardian. The court shall order the return of the
32 child to the physical custody of his or her parent or legal guardian
33 unless the court finds, by a preponderance of the evidence, that
34 the return of the child to his or her parent or legal guardian would
35 create a substantial risk of detriment to the safety, protection, or
36 physical or emotional well-being of the child. The social worker
37 shall have the burden of establishing that detriment. At the
38 permanency review hearing, the court shall consider the criminal
39 history, obtained pursuant to paragraph (1) of subdivision (f) of
40 Section 16504.5, of the parent or legal guardian subsequent to the

1 child's removal, to the extent that the criminal record is
2 substantially related to the welfare of the child or the parent's or
3 legal guardian's ability to exercise custody and control regarding
4 his or her child, provided that the parent or legal guardian agreed
5 to submit fingerprint images to obtain criminal history information
6 as part of the case plan. The failure of the parent or legal guardian
7 to participate regularly and make substantive progress in
8 court-ordered treatment programs shall be prima facie evidence
9 that return would be detrimental. In making its determination, the
10 court shall review and consider the social worker's report and
11 recommendations and the report and recommendations of any child
12 advocate appointed pursuant to Section 356.5; shall consider the
13 efforts or progress, or both, demonstrated by the parent or legal
14 guardian and the extent to which he or she availed himself or
15 herself of services provided, taking into account the particular
16 barriers of an incarcerated or institutionalized parent or legal
17 guardian's access to those court-mandated services and ability to
18 maintain contact with his or her child; and shall make appropriate
19 findings pursuant to subdivision (a) of Section 366.

20 Whether or not the child is returned to his or her parent or legal
21 guardian, the court shall specify the factual basis for its decision.
22 If the child is not returned to a parent or legal guardian, the court
23 shall specify the factual basis for its conclusion that return would
24 be detrimental. If the child is not returned to his or her parent or
25 legal guardian, the court shall consider, and state for the record,
26 in-state and out-of-state options for the child's permanent
27 placement. If the child is placed out of the state, the court shall
28 make a determination whether the out-of-state placement continues
29 to be appropriate and in the best interests of the child.

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

1 or by a licensed county adoption agency, that there is a compelling
2 reason, as described in paragraph (3) of subdivision (g) of Section
3 366.21, for determining that a hearing held under Section 366.26
4 is not in the best interest of the child because the child is not a
5 proper subject for adoption and has no one willing to accept legal
6 guardianship, then the court may, only under these circumstances,
7 order that the child remain in *long-term foster care*. *The nonminor*
8 *dependent's legal status as an adult is in and of itself a compelling*
9 *reason not to hold a hearing pursuant to Section 366.26. The court*
10 *may order that a nonminor dependent who otherwise meets the*
11 *criteria described in Section 11403 remain in long-term foster*
12 *care. If the court orders that a child who is 10 years of age or older*
13 *remain in long-term foster care, the court shall determine whether*
14 *the agency has made reasonable efforts to maintain the child's*
15 *relationships with individuals other than the child's siblings who*
16 *are important to the child, consistent with the child's best interests,*
17 *and may make any appropriate order to ensure that those*
18 *relationships are maintained. The hearing shall be held no later*
19 *than 120 days from the date of the permanency review hearing.*
20 *The court shall also order termination of reunification services to*
21 *the parent or legal guardian. The court shall continue to permit the*
22 *parent or legal guardian to visit the child unless it finds that*
23 *visitation would be detrimental to the child. The court shall*
24 *determine whether reasonable services have been offered or*
25 *provided to the parent or legal guardian. For purposes of this*
26 *subdivision, evidence of any of the following circumstances shall*
27 *not, in and of themselves, be deemed a failure to provide or offer*
28 *reasonable services:*

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

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

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

36 (b) If the child is not returned to a parent or legal guardian at
37 the permanency review hearing and the court determines by clear
38 and convincing evidence that the best interests of the child would
39 be met by the provision of additional reunification services to a
40 parent or legal guardian who is making significant and consistent

1 progress in a substance abuse treatment program, or a parent
2 recently discharged from incarceration or institutionalization and
3 making significant and consistent progress in establishing a safe
4 home for the child's return, the court may continue the case for
5 up to six months for a subsequent permanency review hearing,
6 provided that the hearing shall occur within 24 months of the date
7 the child was originally taken from the physical custody of his or
8 her parent or legal guardian. The court shall continue the case only
9 if it finds that there is a substantial probability that the child will
10 be returned to the physical custody of his or her parent or legal
11 guardian and safely maintained in the home within the extended
12 period of time or that reasonable services have not been provided
13 to the parent or legal guardian. For the purposes of this section, in
14 order to find a substantial probability that the child will be returned
15 to the physical custody of his or her parent or legal guardian and
16 safely maintained in the home within the extended period of time,
17 the court shall be required to find all of the following:

18 (1) That the parent or legal guardian has consistently and
19 regularly contacted and visited with the child.

20 (2) That the parent or legal guardian has made significant and
21 consistent progress in the prior 18 months in resolving problems
22 that led to the child's removal from the home.

23 (3) The parent or legal guardian has demonstrated the capacity
24 and ability both to complete the objectives of his or her substance
25 abuse treatment plan as evidenced by reports from a substance
26 abuse provider as applicable, or complete a treatment plan
27 postdischarge from incarceration or institutionalization, and to
28 provide for the child's safety, protection, physical and emotional
29 well-being, and special needs.

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

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

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

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

9 (A) Current search efforts for an absent parent or parents.

10 (B) A review of the amount of and nature of any contact between
11 the child and his or her parents and other members of his or her
12 extended family since the time of placement. Although the
13 extended family of each child shall be reviewed on a case-by-case
14 basis, “extended family” for the purposes of this subparagraph
15 shall include, but not be limited to, the child’s siblings,
16 grandparents, aunts, and uncles.

17 (C) An evaluation of the child’s medical, developmental,
18 scholastic, mental, and emotional status.

19 (D) A preliminary assessment of the eligibility and commitment
20 of any identified prospective adoptive parent or legal guardian,
21 particularly the caretaker, to include a social history including
22 screening for criminal records and prior referrals for child abuse
23 or neglect, the capability to meet the child’s needs, and the
24 understanding of the legal and financial rights and responsibilities
25 of adoption and guardianship. If a proposed legal guardian is a
26 relative of the minor, ~~and the relative was assessed for foster care~~
27 ~~placement of the minor prior to January 1, 1998,~~ the assessment
28 shall also consider, but need not be limited to, all of the factors
29 specified in subdivision (a) of Section 361.3 *and Section 361.4.*

30 (E) The relationship of the child to any identified prospective
31 adoptive parent or legal guardian, the duration and character of
32 the relationship, the *degree of attachment of the child to the*
33 *prospective relative guardian or adoptive parent, the relative’s or*
34 *adoptive parent’s strong commitment to caring permanently for*
35 *the child, the motivation for seeking adoption or legal guardianship,*
36 ~~and~~ *a statement from the child concerning placement and the*
37 *adoption or legal guardianship, and whether the child, if over 12*
38 *years of age, has been consulted about the proposed relative*
39 *guardianship arrangements, unless the child’s age or physical,*

1 emotional, or other condition precludes his or her meaningful
2 response, and if so, a description of the condition.

3 (F) An analysis of the likelihood that the child will be adopted
4 if parental rights are terminated.

5 (2) (A) A relative caregiver's preference for legal guardianship
6 over adoption, if it is due to circumstances that do not include an
7 unwillingness to accept legal or financial responsibility for the
8 child, shall not constitute the sole basis for recommending removal
9 of the child from the relative caregiver for purposes of adoptive
10 placement.

11 (B) A relative caregiver shall be given information regarding
12 the permanency options of guardianship and adoption, including
13 the long-term benefits and consequences of each option, prior to
14 establishing legal guardianship or pursuing adoption.

15 (d) This section shall become operative January 1, 1999. If at
16 any hearing held pursuant to Section 366.26, a legal guardianship
17 is established for the minor with ~~a relative~~, *an approved relative*
18 *caregiver*, and juvenile court dependency is subsequently
19 dismissed, the ~~relative~~ *minor* shall be eligible for aid under the
20 Kin-GAP Program, as provided for in Article 4.5 (commencing
21 with Section 11360) or Article 4.7 (commencing with Section
22 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

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

29 (f) The implementation and operation of the amendments to
30 subdivision (a) enacted at the 2005–06 Regular Session shall be
31 subject to appropriation through the budget process and by phase,
32 as provided in Section 366.35.

33 (g) This section shall become operative on January 1, 2014.

34 *SEC. 20. Section 366.25 of the Welfare and Institutions Code,*
35 *as amended by Section 13 of Chapter 287 of the Statutes of 2009,*
36 *is amended to read:*

37 366.25. (a) (1) When a case has been continued pursuant to
38 subdivision (b) of Section 366.22, the subsequent permanency
39 review hearing shall occur within 24 months after the date the
40 child was originally removed from the physical custody of his or

1 her parent or legal guardian. The court shall order the return of the
2 child to the physical custody of his or her parent or legal guardian
3 unless the court finds, by a preponderance of the evidence, that
4 the return of the child to his or her parent or legal guardian would
5 create a substantial risk of detriment to the safety, protection, or
6 physical or emotional well-being of the child. The social worker
7 shall have the burden of establishing that detriment. At the
8 subsequent permanency review hearing, the court shall consider
9 the criminal history, obtained pursuant to paragraph (1) of
10 subdivision (f) of Section 16504.5, of the parent or legal guardian
11 subsequent to the child's removal to the extent that the criminal
12 record is substantially related to the welfare of the child or parent
13 or legal guardian's ability to exercise custody and control regarding
14 his or her child provided that the parent or legal guardian agreed
15 to submit fingerprint images to obtain criminal history information
16 as part of the case plan. The failure of the parent or legal guardian
17 to participate regularly and make substantive progress in
18 court-ordered treatment programs shall be prima facie evidence
19 that return would be detrimental. In making its determination, the
20 court shall review and consider the social worker's report and
21 recommendations and the report and recommendations of any child
22 advocate appointed pursuant to Section 356.5; shall consider the
23 efforts or progress, or both, demonstrated by the parent or legal
24 guardian and the extent to which he or she availed himself or
25 herself of services provided; and shall make appropriate findings
26 pursuant to subdivision (a) of Section 366.

27 (2) Whether or not the child is returned to his or her parent or
28 legal guardian, the court shall specify the factual basis for its
29 decision. If the child is not returned to a parent or legal guardian,
30 the court shall specify the factual basis for its conclusion that return
31 would be detrimental. If the child is not returned to his or her
32 parents or legal guardian, the court shall consider and state for the
33 record, in-state and out-of-state options for the child's permanent
34 placement. If the child is placed out of the state, the court shall
35 make a determination whether the out-of-state placement continues
36 to be appropriate and in best interests of the child.

37 (3) If the child is not returned to a parent or legal guardian at
38 the subsequent permanency review hearing, the court shall order
39 that a hearing be held pursuant to Section 366.26 in order to
40 determine whether adoption, or, in the case of an Indian child,

1 tribal customary adoption, guardianship, or long-term foster care
2 is the most appropriate plan for the child. *A hearing pursuant to*
3 *Section 366.26 shall not be ordered if the child is a nonminor*
4 *dependent.* However, if the court finds by clear and convincing
5 evidence, based on the evidence already presented to it, including
6 a recommendation by the State Department of Social Services
7 when it is acting as an adoption agency in counties that are not
8 served by a county adoption agency or by a licensed county
9 adoption agency, that there is a compelling reason, as described
10 in paragraph (3) of subdivision (g) of Section 366.21, for
11 determining that a hearing held under Section 366.26 is not in the
12 best interest of the child because the child is not a proper subject
13 for adoption or, in the case of an Indian child, tribal customary
14 adoption, and has no one willing to accept legal guardianship, then
15 the court may, only under these circumstances, order that the child
16 remain in *long-term foster care.* *The nonminor dependent's legal*
17 *status as an adult is in and of itself a compelling reason not to*
18 *hold a hearing pursuant to Section 366.26.* *The court may order*
19 *that a nonminor dependent who otherwise meets the criteria*
20 *described in Section 11403 remain in long-term foster care.* If the
21 court orders that a child who is 10 years of age or older remain in
22 long-term foster care, the court shall determine whether the agency
23 has made reasonable efforts to maintain the child's relationships
24 with individuals other than the child's siblings who are important
25 to the child, consistent with the child's best interests, and may
26 make any appropriate order to ensure that those relationships are
27 maintained. The hearing shall be held no later than 120 days from
28 the date of the subsequent permanency review hearing. The court
29 shall also order termination of reunification services to the parent
30 or legal guardian. The court shall continue to permit the parent or
31 legal guardian to visit the child unless it finds that visitation would
32 be detrimental to the child. The court shall determine whether
33 reasonable services have been offered or provided to the parent or
34 legal guardian. For purposes of this subdivision, evidence of any
35 of the following circumstances shall not, in and of themselves, be
36 deemed a failure to provide or offer reasonable services:

37 (A) The child has been placed with a foster family that is eligible
38 to adopt a child, or has been placed in a preadoptive home.

39 (B) The case plan includes services to make and finalize a
40 permanent placement for the child if efforts to reunify fail.

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

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

10 (A) Current search efforts for an absent parent or parents.

11 (B) A review of the amount of, and nature of, any contact
12 between the child and his or her parents and other members of his
13 or her extended family since the time of placement. Although the
14 extended family of each child shall be reviewed on a case-by-case
15 basis, “extended family” for the purposes of this paragraph shall
16 include, but not be limited to, the child’s siblings, grandparents,
17 aunts, and uncles.

18 (C) An evaluation of the child’s medical, developmental,
19 scholastic, mental, and emotional status.

20 (D) A preliminary assessment of the eligibility and commitment
21 of any identified prospective adoptive parent or legal guardian,
22 including a prospective tribal customary adoptive parent,
23 particularly the caretaker, to include a social history including
24 screening for criminal records and prior referrals for child abuse
25 or neglect, the capability to meet the child’s needs, and the
26 understanding of the legal and financial rights and responsibilities
27 of adoption and guardianship. If a proposed legal guardian is a
28 relative of the minor, ~~and the relative was assessed for foster care~~
29 ~~placement of the minor prior to January 1, 1998,~~ the assessment
30 shall also consider, but need not be limited to, all of the factors
31 specified in subdivision (a) of Section 361.3 *and in Section 361.4.*

32 (E) The relationship of the child to any identified prospective
33 adoptive parent or legal guardian, including a prospective tribal
34 customary adoptive parent, the duration and character of the
35 relationship, *the degree of attachment of the child to the prospective*
36 *relative guardian or adoptive parent, the relative’s or adoptive*
37 *parent’s strong commitment to caring permanently for the child,*
38 *the motivation for seeking adoption or legal guardianship, and a*
39 *statement from the child concerning placement and the adoption*
40 *or legal guardianship, and whether the child, if over 12 years of*

1 *age, has been consulted about the proposed relative guardianship*
2 *arrangements, unless the child’s age or physical, emotional, or*
3 *other condition precludes his or her meaningful response, and if*
4 *so, a description of the condition.*

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

7 (G) In the case of an Indian child, in addition to subparagraphs
8 (A) to (F), inclusive, an assessment of the likelihood that the child
9 will be adopted, when, in consultation with the child’s tribe, a
10 customary tribal adoption, as defined in Section 366.24, is
11 recommended. If tribal customary adoption is recommended, the
12 assessment shall include an analysis of both of the following:

13 (i) Whether tribal customary adoption would or would not be
14 detrimental to the Indian child and the reasons for reaching that
15 conclusion.

16 (ii) Whether the Indian child cannot or should not be returned
17 to the home of the Indian parent or Indian custodian and the reasons
18 for reaching that conclusion.

19 (2) (A) A relative caregiver’s preference for legal guardianship
20 over adoption, if it is due to circumstances that do not include an
21 unwillingness to accept legal or financial responsibility for the
22 child, shall not constitute the sole basis for recommending removal
23 of the child from the relative caregiver for purposes of adoptive
24 placement.

25 (B) A relative caregiver shall be given information regarding
26 the permanency options of guardianship and adoption, including
27 the long-term benefits and consequences of each option, prior to
28 establishing legal guardianship or pursuing adoption.

29 (c) If, at any hearing held pursuant to Section 366.26, a
30 guardianship is established for the minor with—~~a~~ *an approved*
31 *relative caregiver*, and juvenile court dependency is subsequently
32 dismissed, the ~~relative~~ *minor* shall be eligible for aid under the
33 Kin-GAP Program, as provided for in Article 4.5 (commencing
34 with Section 11360) or Article 4.7 (commencing with Section
35 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

36 (d) As used in this section, “relative” means an adult who is
37 related to the minor by blood, adoption, or affinity within the fifth
38 degree of kinship, including stepparents, stepsiblings, and all
39 relatives whose status is preceded by the words “great,”

1 “great-great,” or “grand,” or the spouse of any of those persons
2 even if the marriage was terminated by death or dissolution.

3 (e) The implementation and operation of subdivision (a) enacted
4 at the 2005–06 Regular Session shall be subject to appropriation
5 through the budget process and by phase, as provided in Section
6 366.35.

7 (f) This section shall remain in effect only until January 1, 2014,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2014, deletes or extends that date.

10 *SEC. 21. Section 366.25 of the Welfare and Institutions Code,*
11 *as added by Section 14 of Chapter 287 of the Statutes of 2009, is*
12 *amended to read:*

13 366.25. (a) (1) When a case has been continued pursuant to
14 subdivision (b) of Section 366.22, the subsequent permanency
15 review hearing shall occur within 24 months after the date the
16 child was originally removed from the physical custody of his or
17 her parent or legal guardian. The court shall order the return of the
18 child to the physical custody of his or her parent or legal guardian
19 unless the court finds, by a preponderance of the evidence, that
20 the return of the child to his or her parent or legal guardian would
21 create a substantial risk of detriment to the safety, protection, or
22 physical or emotional well-being of the child. The social worker
23 shall have the burden of establishing that detriment. At the
24 subsequent permanency review hearing, the court shall consider
25 the criminal history, obtained pursuant to paragraph (1) of
26 subdivision (f) of Section 16504.5, of the parent or legal guardian
27 subsequent to the child’s removal to the extent that the criminal
28 record is substantially related to the welfare of the child or parent
29 or legal guardian’s ability to exercise custody and control regarding
30 his or her child provided that the parent or legal guardian agreed
31 to submit fingerprint images to obtain criminal history information
32 as part of the case plan. The failure of the parent or legal guardian
33 to participate regularly and make substantive progress in
34 court-ordered treatment programs shall be prima facie evidence
35 that return would be detrimental. In making its determination, the
36 court shall review and consider the social worker’s report and
37 recommendations and the report and recommendations of any child
38 advocate appointed pursuant to Section 356.5; shall consider the
39 efforts or progress, or both, demonstrated by the parent or legal
40 guardian and the extent to which he or she availed himself or

1 herself of services provided; and shall make appropriate findings
2 pursuant to subdivision (a) of Section 366.

3 (2) Whether or not the child is returned to his or her parent or
4 legal guardian, the court shall specify the factual basis for its
5 decision. If the child is not returned to a parent or legal guardian,
6 the court shall specify the factual basis for its conclusion that return
7 would be detrimental. If the child is not returned to his or her
8 parents or legal guardian, the court shall consider and state for the
9 record, in-state and out-of-state options for the child's permanent
10 placement. If the child is placed out of the state, the court shall
11 make a determination whether the out-of-state placement continues
12 to be appropriate and in best interests of the child.

13 (3) If the child is not returned to a parent or legal guardian at
14 the subsequent permanency review hearing, the court shall order
15 that a hearing be held pursuant to Section 366.26 in order to
16 determine whether adoption, guardianship, or long-term foster
17 care is the most appropriate plan for the child. *A hearing pursuant*
18 *to Section 366.26 shall not be ordered if the child is a nonminor*
19 *dependent.* However, if the court finds by clear and convincing
20 evidence, based on the evidence already presented to it, including
21 a recommendation by the State Department of Social Services
22 when it is acting as an adoption agency in counties that are not
23 served by a county adoption agency or by a licensed county
24 adoption agency, that there is a compelling reason, as described
25 in paragraph (3) of subdivision (g) of Section 366.21, for
26 determining that a hearing held under Section 366.26 is not in the
27 best interest of the child because the child is not a proper subject
28 for adoption and has no one willing to accept legal guardianship,
29 then the court may, only under these circumstances, order that the
30 child remain in *long-term foster care.* *The nonminor dependent's*
31 *legal status as an adult is in and of itself a compelling reason not*
32 *to hold a hearing pursuant to Section 366.26.* *The court may order*
33 *that a nonminor dependent who otherwise meets the criterion*
34 *criteria described in Section 11403 remain in long-term foster*
35 *care.* If the court orders that a child who is 10 years of age or older
36 remain in long-term foster care, the court shall determine whether
37 the agency has made reasonable efforts to maintain the child's
38 relationships with individuals other than the child's siblings who
39 are important to the child, consistent with the child's best interests,
40 and may make any appropriate order to ensure that those

1 relationships are maintained. The hearing shall be held no later
2 than 120 days from the date of the subsequent permanency review
3 hearing. The court shall also order termination of reunification
4 services to the parent or legal guardian. The court shall continue
5 to permit the parent or legal guardian to visit the child unless it
6 finds that visitation would be detrimental to the child. The court
7 shall determine whether reasonable services have been offered or
8 provided to the parent or legal guardian. For purposes of this
9 subdivision, evidence of any of the following circumstances shall
10 not, in and of themselves, be deemed a failure to provide or offer
11 reasonable services:

12 (A) The child has been placed with a foster family that is eligible
13 to adopt a child, or has been placed in a preadoptive home.

14 (B) The case plan includes services to make and finalize a
15 permanent placement for the child if efforts to reunify fail.

16 (C) Services to make and finalize a permanent placement for
17 the child, if efforts to reunify fail, are provided concurrently with
18 services to reunify the family.

19 (b) (1) Whenever a court orders that a hearing pursuant to
20 Section 366.26 shall be held, it shall direct the agency supervising
21 the child and the licensed county adoption agency, or the State
22 Department of Social Services when it is acting as an adoption
23 agency in counties that are not served by a county adoption agency,
24 to prepare an assessment that shall include:

25 (A) Current search efforts for an absent parent or parents.

26 (B) A review of the amount of, and nature of, any contact
27 between the child and his or her parents and other members of his
28 or her extended family since the time of placement. Although the
29 extended family of each child shall be reviewed on a case-by-case
30 basis, “extended family” for the purposes of this paragraph shall
31 include, but not be limited to, the child’s siblings, grandparents,
32 aunts, and uncles.

33 (C) An evaluation of the child’s medical, developmental,
34 scholastic, mental, and emotional status.

35 (D) A preliminary assessment of the eligibility and commitment
36 of any identified prospective adoptive parent or legal guardian,
37 particularly the caretaker, to include a social history including
38 screening for criminal records and prior referrals for child abuse
39 or neglect, the capability to meet the child’s needs, and the
40 understanding of the legal and financial rights and responsibilities

1 of adoption and guardianship. If a proposed legal guardian is a
2 relative of the minor, ~~and the relative was assessed for foster care~~
3 ~~placement of the minor prior to January 1, 1998,~~ the assessment
4 shall also consider, but need not be limited to, all of the factors
5 specified in subdivision (a) of Section 361.3 *and in Section 361.4.*

6 (E) The relationship of the child to any identified prospective
7 adoptive parent or legal guardian, the duration and character of
8 the relationship, the *degree of attachment of the child to the*
9 *prospective relative guardian or adoptive parent, the relative's or*
10 *adoptive parent's strong commitment to caring permanently for*
11 *the child, the motivation for seeking adoption or legal guardianship,*
12 ~~and~~ a statement from the child concerning placement and the
13 adoption or legal guardianship, *and whether the child, if over 12*
14 *years of age, has been consulted about the proposed relative*
15 *guardianship arrangements,* unless the child's age or physical,
16 emotional, or other condition precludes his or her meaningful
17 response, and if so, a description of the condition.

18 (F) An analysis of the likelihood that the child will be adopted
19 if parental rights are terminated.

20 (2) (A) A relative caregiver's preference for legal guardianship
21 over adoption, if it is due to circumstances that do not include an
22 unwillingness to accept legal or financial responsibility for the
23 child, shall not constitute the sole basis for recommending removal
24 of the child from the relative caregiver for purposes of adoptive
25 placement.

26 (B) A relative caregiver shall be given information regarding
27 the permanency options of guardianship and adoption, including
28 the long-term benefits and consequences of each option, prior to
29 establishing legal guardianship or pursuing adoption.

30 (c) If, at any hearing held pursuant to Section 366.26, a
31 guardianship is established for the minor with ~~a~~ *an approved*
32 *relative caregiver,* and juvenile court dependency is subsequently
33 dismissed, ~~the relative~~ *minor* shall be eligible for aid under the
34 Kin-GAP Program, as provided for in Article 4.5 (commencing
35 with Section 11360) *or Article 4.7 (commencing with Section*
36 *11385), as applicable,* of Chapter 2 of Part 3 of Division 9.

37 (d) As used in this section, "relative" means an adult who is
38 related to the minor by blood, adoption, or affinity within the fifth
39 degree of kinship, including stepparents, stepsiblings, and all
40 relatives whose status is preceded by the words "great,"

1 “great-great,” or “grand,” or the spouse of any of those persons
2 even if the marriage was terminated by death or dissolution.

3 (e) The implementation and operation of subdivision (a) enacted
4 at the 2005–06 Regular Session shall be subject to appropriation
5 through the budget process and by phase, as provided in Section
6 366.35.

7 (f) This section shall become operative on January 1, 2014.

8 *SEC. 22. Section 366.3 of the Welfare and Institutions Code,*
9 *as amended by Section 17 of Chapter 287 of the Statutes of 2009,*
10 *is amended to read:*

11 366.3. (a) If a juvenile court orders a permanent plan of
12 adoption, tribal customary adoption, or legal guardianship pursuant
13 to Section 360 or 366.26, the court shall retain jurisdiction over
14 the child until the child is adopted or the legal guardianship is
15 established, except as provided for in Section 366.29 *or* 366.31.
16 The status of the child shall be reviewed every six months to ensure
17 that the adoption or legal guardianship is completed as
18 expeditiously as possible. When the adoption of the child has been
19 granted, or in the case of a tribal customary adoption, when the
20 tribal customary adoption order has been afforded full faith and
21 credit and the petition for adoption has been granted, the court
22 shall terminate its jurisdiction over the child. Following
23 establishment of a legal guardianship, the court may continue
24 jurisdiction over the child as a dependent child of the juvenile court
25 or may terminate its dependency jurisdiction and retain jurisdiction
26 over the child as a ward of the legal guardianship, as authorized
27 by Section 366.4. If, however, a relative of the child is appointed
28 the legal guardian of the child and the child has been placed with
29 the relative for at least ~~12~~ six months, the court shall, except if the
30 relative guardian objects, or upon a finding of exceptional
31 circumstances, terminate its dependency jurisdiction and retain
32 jurisdiction over the child as a ward of the guardianship, as
33 authorized by Section 366.4. Following a termination of parental
34 rights, the parent or parents shall not be a party to, or receive notice
35 of, any subsequent proceedings regarding the child.

36 (b) If the court has dismissed dependency jurisdiction following
37 the establishment of a legal guardianship, or no dependency
38 jurisdiction attached because of the granting of a legal guardianship
39 pursuant to Section 360, and the legal guardianship is subsequently
40 revoked or otherwise terminated, the county department of social

1 services or welfare department shall notify the juvenile court of
2 this fact. The court may vacate its previous order dismissing
3 dependency jurisdiction over the child.

4 Notwithstanding Section 1601 of the Probate Code, the
5 proceedings to terminate a legal guardianship that has been granted
6 pursuant to Section 360 or 366.26 shall be held either in the
7 juvenile court that retains jurisdiction over the guardianship as
8 authorized by Section 366.4 or the juvenile court in the county
9 where the guardian and child currently reside, based on the best
10 interests of the child, unless the termination is due to the
11 emancipation or adoption of the child. The juvenile court having
12 jurisdiction over the guardianship shall receive notice from the
13 court in which the petition is filed within five calendar days of the
14 filing. Prior to the hearing on a petition to terminate legal
15 guardianship pursuant to this subdivision, the court shall order the
16 county department of social services or welfare department having
17 jurisdiction or jointly with the county department where the
18 guardian and child currently reside to prepare a report, for the
19 court's consideration, that shall include an evaluation of whether
20 the child could safely remain in, or be returned to, the legal
21 guardian's home, without terminating the legal guardianship, if
22 services were provided to the child or legal guardian. If applicable,
23 the report shall also identify recommended family maintenance or
24 reunification services to maintain the legal guardianship and set
25 forth a plan for providing those services. If the petition to terminate
26 legal guardianship is granted, either juvenile court may resume
27 dependency jurisdiction over the child, and may order the county
28 department of social services or welfare department to develop a
29 new permanent plan, which shall be presented to the court within
30 60 days of the termination. If no dependency jurisdiction has
31 attached, the social worker shall make any investigation he or she
32 deems necessary to determine whether the child may be within the
33 jurisdiction of the juvenile court, as provided in Section 328.

34 Unless the parental rights of the child's parent or parents have
35 been terminated, they shall be notified that the legal guardianship
36 has been revoked or terminated and shall be entitled to participate
37 in the new permanency planning hearing. The court shall try to
38 place the child in another permanent placement. At the hearing,
39 the parents may be considered as custodians but the child shall not
40 be returned to the parent or parents unless they prove, by a

1 preponderance of the evidence, that reunification is the best
2 alternative for the child. The court may, if it is in the best interests
3 of the child, order that reunification services again be provided to
4 the parent or parents.

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

21 (d) If the child *or nonminor dependent* is in a placement other
22 than the home of a legal guardian and jurisdiction has not been
23 dismissed, the status of the child shall be reviewed at least every
24 six months. The review of the status of a child for whom the court
25 has ordered parental rights terminated and who has been ordered
26 placed for adoption shall be conducted by the court. The review
27 of the status of a child *or nonminor dependent* for whom the court
28 has not ordered parental rights terminated and who has not been
29 ordered placed for adoption may be conducted by the court or an
30 appropriate local agency. The court shall conduct the review under
31 the following circumstances:

32 (1) Upon the request of the child's parents or legal guardians.

33 (2) Upon the request of the child *or nonminor dependent*.

34 (3) It has been 12 months since a hearing held pursuant to
35 Section 366.26 or an order that the child remain in long-term foster
36 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
37 subdivision (h).

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

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 (e) Except as provided in subdivision (g), at the review held
5 every six months pursuant to subdivision (d), the reviewing body
6 shall inquire about the progress being made to provide a permanent
7 home for the child, shall consider the safety of the child, and shall
8 determine all of the following:

9 (1) The continuing necessity for, and appropriateness of, the
10 placement.

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

23 (3) The continuing appropriateness and extent of compliance
24 with the permanent plan for the child, including efforts to maintain
25 relationships between a child who is 10 years of age or older and
26 who has been in out-of-home placement for six months or longer
27 and individuals who are important to the child and efforts to
28 identify a prospective adoptive parent or legal guardian, including,
29 but not limited to, child-specific recruitment efforts and listing on
30 an adoption exchange.

31 (4) The extent of the agency's compliance with the child welfare
32 services case plan in making reasonable efforts either to return the
33 child to the safe home of the parent or to complete whatever steps
34 are necessary to finalize the permanent placement of the child. If
35 the reviewing body determines that a second period of reunification
36 services is in the child's best interests, and that there is a significant
37 likelihood of the child's return to a safe home due to changed
38 circumstances of the parent, pursuant to subdivision (f), the specific
39 reunification services required to effect the child's return to a safe
40 home shall be described.

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

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

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

18 (8) The likely date by which the child may be returned to, and
19 safely maintained in, the home, placed for adoption, legal
20 guardianship, in another planned permanent living arrangement,
21 or, for an Indian child, in consultation with the child's tribe, placed
22 for tribal customary adoption.

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

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

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

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

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

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

37 The factors the court may consider as indicators of the nature of
38 the child's sibling relationships include, but are not limited to,
39 whether the siblings were raised together in the same home,
40 whether the siblings have shared significant common experiences

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

5 (10) For a child who is 16 years of age or older, *and, effective*
6 *January 1, 2011, for a nonminor dependent*, the services needed
7 to assist the child *or nonminor dependent* to make the transition
8 from foster care to independent living.

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

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

17 (f) Unless their parental rights have been permanently
18 terminated, the parent or parents of the child are entitled to receive
19 notice of, and participate in, those hearings. It shall be presumed
20 that continued care is in the best interests of the child, unless the
21 parent or parents prove, by a preponderance of the evidence, that
22 further efforts at reunification are the best alternative for the child.
23 In those cases, the court may order that further reunification
24 services to return the child to a safe home environment be provided
25 to the parent or parents up to a period of six months, and family
26 maintenance services, as needed for an additional six months in
27 order to return the child to a safe home environment.

28 (g) At the review conducted by the court and held at least every
29 six months, regarding a child for whom the court has ordered
30 parental rights terminated and who has been ordered placed for
31 adoption, or, for an Indian child for whom parental rights are not
32 being terminated and a tribal customary adoption is being
33 considered, the county welfare department shall prepare and present
34 to the court a report describing the following:

- 35 (1) The child's present placement.
- 36 (2) The child's current physical, mental, emotional, and
37 educational status.
- 38 (3) If the child has not been placed with a prospective adoptive
39 parent or guardian, identification of individuals, other than the
40 child's siblings, who are important to the child and actions

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

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

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

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

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

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

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

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

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

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

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

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

36 (h) At the review held pursuant to subdivision (d) for a child in
37 long-term foster care, the court shall consider all permanency
38 planning options for the child including whether the child should
39 be returned to the home of the parent, placed for adoption, or, for
40 an Indian child, in consultation with the child's tribe, placed for

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

22 (i) If, as authorized by subdivision (h), the court orders a hearing
23 pursuant to Section 366.26, the court shall direct the agency
24 supervising the child and the licensed county adoption agency, or
25 the State Department of Social Services when it is acting as an
26 adoption agency in counties that are not served by a county
27 adoption agency, to prepare an assessment as provided for in
28 subdivision (i) of Section 366.21 or subdivision (b) of Section
29 366.22. A hearing held pursuant to Section 366.26 shall be held
30 no later than 120 days from the date of the 12-month review at
31 which it is ordered, and at that hearing the court shall determine
32 whether adoption, tribal customary adoption, legal guardianship,
33 or long-term foster care is the most appropriate plan for the child.
34 *A hearing pursuant to Section 366.26 shall not be ordered if the*
35 *child is a nonminor dependent. The court may order that a*
36 *nonminor dependent who otherwise meets the criteria described*
37 *in Section 11403 remain in long-term foster care.*

38 (j) The implementation and operation of the amendments to
39 subdivision (e) enacted at the 2005–06 Regular Session shall be

1 subject to appropriation through the budget process and by phase,
2 as provided in Section 366.35.

3 (k) The reviews conducted pursuant to subdivision (a) or (d)
4 may be conducted earlier than every six months if the court
5 determines that an earlier review is in the best interests of the child
6 or as court rules prescribe.

7 *(l) On and after January 1, 2011, at the review hearing that*
8 *occurs in the six-month period prior to the minor's attaining 18*
9 *years of age, and at every subsequent review hearing, the report*
10 *shall describe all of the following:*

11 *(1) The minor's plans to remain in foster care and plans to meet*
12 *one or more of the criteria as described in Section 11403 to*
13 *continue to receive AFDC-FC benefits.*

14 *(2) The efforts made and assistance provided to the minor by*
15 *the social worker or the probation officer so that the minor will*
16 *be able to meet the criteria.*

17 *(3) Efforts toward completing the items described in*
18 *subparagraph (E) of paragraph (2) of subdivision (a) of Section*
19 *391.*

20 *(m) On and after January 1, 2011, the reviews conducted*
21 *pursuant to subdivisions (e) and (h) for any nonminor dependent*
22 *shall be conducted in a manner that respects the nonminor's status*
23 *as a legal adult, be focused on the goals and services described*
24 *in the youth's transitional independent living case plan, including*
25 *efforts made to maintain connections with caring and permanently*
26 *committed adults, and attended as appropriate by additional*
27 *participants invited by the nonminor dependent. The review shall*
28 *include all the issues in subdivision (e), except paragraph (5) of*
29 *subdivision (e). The county child welfare or probation department,*
30 *or Indian tribe that has entered into an agreement pursuant to*
31 *Section 10553.1 shall prepare and present to the court a report*
32 *that addresses the youth's progress in meeting the goals in the*
33 *transitional independent living case plan and propose*
34 *modifications as necessary to further those goals. The report shall*
35 *document that the nonminor has received all the information and*
36 *documentation described in paragraph (2) of subdivision (e) of*
37 *Section 391. If the court is considering terminating dependency*
38 *jurisdiction for a nonminor dependent it shall first hold a hearing*
39 *pursuant to Section 391.*

1 (n) On and after January 1, 2011, if a review hearing pursuant
2 to this section is the last review hearing to be held before the child
3 attains 18 years of age, the court shall ensure that the child's
4 transitional independent living case plan includes a plan for the
5 child to meet one or more of the criteria in Section 11403 so that
6 the child can become a nonminor dependent, and that the child
7 has been informed of his or her right to seek the termination of
8 dependency jurisdiction pursuant to Section 391.

9 (†)

10 (o) This section shall remain in effect only until January 1, 2014,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before January 1, 2014, deletes or extends that date.

13 SEC. 23. Section 366.3 of the Welfare and Institutions Code,
14 as added by Section 18 of Chapter 287 of the Statutes of 2009, is
15 amended to read:

16 366.3. (a) If a juvenile court orders a permanent plan of
17 adoption or legal guardianship pursuant to Section 360 or 366.26,
18 the court shall retain jurisdiction over the child until the child is
19 adopted or the legal guardianship is established, except as provided
20 for in Section 366.29 or Section 366.31. The status of the child
21 shall be reviewed every six months to ensure that the adoption or
22 legal guardianship is completed as expeditiously as possible. When
23 the adoption of the child has been granted, the court shall terminate
24 its jurisdiction over the child. Following establishment of a legal
25 guardianship, the court may continue jurisdiction over the child
26 as a dependent child of the juvenile court or may terminate its
27 dependency jurisdiction and retain jurisdiction over the child as a
28 ward of the legal guardianship, as authorized by Section 366.4. If,
29 however, a relative of the child is appointed the legal guardian of
30 the child and the child has been placed with the relative for at least
31 ~~12~~ six months, the court shall, except if the relative guardian
32 objects, or upon a finding of exceptional circumstances, terminate
33 its dependency jurisdiction and retain jurisdiction over the child
34 as a ward of the guardianship, as authorized by Section 366.4.
35 Following a termination of parental rights, the parent or parents
36 shall not be a party to, or receive notice of, any subsequent
37 proceedings regarding the child.

38 (b) If the court has dismissed dependency jurisdiction following
39 the establishment of a legal guardianship, or no dependency
40 jurisdiction attached because of the granting of a legal guardianship

1 pursuant to Section 360, and the legal guardianship is subsequently
2 revoked or otherwise terminated, the county department of social
3 services or welfare department shall notify the juvenile court of
4 this fact. The court may vacate its previous order dismissing
5 dependency jurisdiction over the child.

6 Notwithstanding Section 1601 of the Probate Code, the
7 proceedings to terminate a legal guardianship that has been granted
8 pursuant to Section 360 or 366.26 shall be held either in the
9 juvenile court that retains jurisdiction over the guardianship as
10 authorized by Section 366.4 or the juvenile court in the county
11 where the guardian and child currently reside, based on the best
12 interests of the child, unless the termination is due to the
13 emancipation or adoption of the child. The juvenile court having
14 jurisdiction over the guardianship shall receive notice from the
15 court in which the petition is filed within five calendar days of the
16 filing. Prior to the hearing on a petition to terminate legal
17 guardianship pursuant to this subdivision, the court shall order the
18 county department of social services or welfare department having
19 jurisdiction or jointly with the county department where the
20 guardian and child currently reside to prepare a report, for the
21 court's consideration, that shall include an evaluation of whether
22 the child could safely remain in, or be returned to, the legal
23 guardian's home, without terminating the legal guardianship, if
24 services were provided to the child or legal guardian. If applicable,
25 the report shall also identify recommended family maintenance or
26 reunification services to maintain the legal guardianship and set
27 forth a plan for providing those services. If the petition to terminate
28 legal guardianship is granted, either juvenile court may resume
29 dependency jurisdiction over the child, and may order the county
30 department of social services or welfare department to develop a
31 new permanent plan, which shall be presented to the court within
32 60 days of the termination. If no dependency jurisdiction has
33 attached, the social worker shall make any investigation he or she
34 deems necessary to determine whether the child may be within the
35 jurisdiction of the juvenile court, as provided in Section 328.

36 Unless the parental rights of the child's parent or parents have
37 been terminated, they shall be notified that the legal guardianship
38 has been revoked or terminated and shall be entitled to participate
39 in the new permanency planning hearing. The court shall try to
40 place the child in another permanent placement. At the hearing,

1 the parents may be considered as custodians but the child shall not
2 be returned to the parent or parents unless they prove, by a
3 preponderance of the evidence, that reunification is the best
4 alternative for the child. The court may, if it is in the best interests
5 of the child, order that reunification services again be provided to
6 the parent or parents.

7 (c) If, following the establishment of a legal guardianship, the
8 county welfare department becomes aware of changed
9 circumstances that indicate adoption may be an appropriate plan
10 for the child, the department shall so notify the court. The court
11 may vacate its previous order dismissing dependency jurisdiction
12 over the child and order that a hearing be held pursuant to Section
13 366.26 to determine whether adoption or continued legal
14 guardianship is the most appropriate plan for the child. The hearing
15 shall be held no later than 120 days from the date of the order. If
16 the court orders that a hearing shall be held pursuant to Section
17 366.26, the court shall direct the agency supervising the child and
18 the licensed county adoption agency, or the State Department of
19 Social Services if it is acting as an adoption agency in counties
20 that are not served by a county adoption agency, to prepare an
21 assessment under subdivision (b) of Section 366.22.

22 (d) If the child *or nonminor dependent* is in a placement other
23 than the home of a legal guardian and jurisdiction has not been
24 dismissed, the status of the child shall be reviewed at least every
25 six months. The review of the status of a child for whom the court
26 has ordered parental rights terminated and who has been ordered
27 placed for adoption shall be conducted by the court. The review
28 of the status of a child *or nonminor dependent* for whom the court
29 has not ordered parental rights terminated and who has not been
30 ordered placed for adoption may be conducted by the court or an
31 appropriate local agency. The court shall conduct the review under
32 the following circumstances:

- 33 (1) Upon the request of the child's parents or legal guardians.
- 34 (2) Upon the request of the child *or nonminor dependent*.
- 35 (3) It has been 12 months since a hearing held pursuant to
36 Section 366.26 or an order that the child remain in long-term foster
37 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
38 subdivision (h).
- 39 (4) It has been 12 months since a review was conducted by the
40 court.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 (e) Except as provided in subdivision (g), at the review held
5 every six months pursuant to subdivision (d), the reviewing body
6 shall inquire about the progress being made to provide a permanent
7 home for the child, shall consider the safety of the child, and shall
8 determine all of the following:

9 (1) The continuing necessity for, and appropriateness of, the
10 placement.

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

23 (3) The continuing appropriateness and extent of compliance
24 with the permanent plan for the child, including efforts to maintain
25 relationships between a child who is 10 years of age or older and
26 who has been in out-of-home placement for six months or longer
27 and individuals who are important to the child and efforts to
28 identify a prospective adoptive parent or legal guardian, including,
29 but not limited to, child-specific recruitment efforts and listing on
30 an adoption exchange.

31 (4) The extent of the agency's compliance with the child welfare
32 services case plan in making reasonable efforts either to return the
33 child to the safe home of the parent or to complete whatever steps
34 are necessary to finalize the permanent placement of the child. If
35 the reviewing body determines that a second period of reunification
36 services is in the child's best interests, and that there is a significant
37 likelihood of the child's return to a safe home due to changed
38 circumstances of the parent, pursuant to subdivision (f), the specific
39 reunification services required to effect the child's return to a safe
40 home shall be described.

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

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

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

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

21 (9) Whether the child has any siblings under the court’s
 22 jurisdiction, and, if any siblings exist, all of the following:

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

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

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

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

33 (E) The impact of the sibling relationships on the child’s
 34 placement and planning for legal permanence.

35 The factors the court may consider as indicators of the nature of
 36 the child’s sibling relationships include, but are not limited to,
 37 whether the siblings were raised together in the same home,
 38 whether the siblings have shared significant common experiences
 39 or have existing close and strong bonds, whether either sibling
 40 expresses a desire to visit or live with his or her sibling, as

1 applicable, and whether ongoing contact is in the child's best
2 emotional interests.

3 (10) For a child who is 16 years of age or older, *and, effective*
4 *January 1, 2011, for a nonminor dependent*, the services needed
5 to assist the child *or nonminor dependent* to make the transition
6 from foster care to independent living.

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

10 Each licensed foster family agency shall submit reports for each
11 child in its care, custody, and control to the court concerning the
12 continuing appropriateness and extent of compliance with the
13 child's permanent plan, the extent of compliance with the case
14 plan, and the type and adequacy of services provided to the child.

15 (f) Unless their parental rights have been permanently
16 terminated, the parent or parents of the child are entitled to receive
17 notice of, and participate in, those hearings. It shall be presumed
18 that continued care is in the best interests of the child, unless the
19 parent or parents prove, by a preponderance of the evidence, that
20 further efforts at reunification are the best alternative for the child.
21 In those cases, the court may order that further reunification
22 services to return the child to a safe home environment be provided
23 to the parent or parents up to a period of six months, and family
24 maintenance services, as needed for an additional six months in
25 order to return the child to a safe home environment.

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

- 31 (1) The child's present placement.
- 32 (2) The child's current physical, mental, emotional, and
33 educational status.
- 34 (3) If the child has not been placed with a prospective adoptive
35 parent or guardian, identification of individuals, other than the
36 child's siblings, who are important to the child and actions
37 necessary to maintain the child's relationship with those
38 individuals, provided that those relationships are in the best interest
39 of the child. The agency shall ask every child who is 10 years of
40 age or older to identify any individuals who are important to him

1 or her, consistent with the child's best interest, and may ask any
2 child who is younger than 10 years of age to provide that
3 information as appropriate. The agency shall make efforts to
4 identify other individuals who are important to the child.

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

7 (5) Whether an adoptive placement agreement has been signed
8 and filed.

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

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

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

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

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

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

23 (12) Recommendations for court orders that will assist in the
24 placement of the child for adoption or in the finalization of the
25 adoption.

26 The court shall determine whether or not reasonable efforts to
27 make and finalize a permanent placement for the child have been
28 made.

29 The court shall make appropriate orders to protect the stability
30 of the child and to facilitate and expedite the permanent placement
31 and adoption of the child.

32 (h) At the review held pursuant to subdivision (d) for a child in
33 long-term foster care, the court shall consider all permanency
34 planning options for the child including whether the child should
35 be returned to the home of the parent, placed for adoption, or
36 appointed a legal guardian, or, if compelling reasons exist for
37 finding that none of the foregoing options are in the best interest
38 of the child, whether the child should be placed in another planned
39 permanent living arrangement. The court shall order that a hearing
40 be held pursuant to Section 366.26, unless it determines by clear

1 and convincing evidence that there is a compelling reason for
2 determining that a hearing held pursuant to Section 366.26 is not
3 in the best interest of the child because the child is being returned
4 to the home of the parent, the child is not a proper subject for
5 adoption, or no one is willing to accept legal guardianship. If the
6 licensed county adoption agency, or the department when it is
7 acting as an adoption agency in counties that are not served by a
8 county adoption agency, has determined it is unlikely that the child
9 will be adopted or one of the conditions described in paragraph
10 (1) of subdivision (c) of Section 366.26 applies, that fact shall
11 constitute a compelling reason for purposes of this subdivision.
12 Only upon that determination may the court order that the child
13 remain in foster care, without holding a hearing pursuant to Section
14 366.26. *The nonminor dependent's legal status as an adult is in*
15 *and of itself a compelling reason not to hold a hearing pursuant*
16 *to Section 366.26.*

17 (i) If, as authorized by subdivision (h), the court orders a hearing
18 pursuant to Section 366.26, the court shall direct the agency
19 supervising the child and the licensed county adoption agency, or
20 the State Department of Social Services when it is acting as an
21 adoption agency in counties that are not served by a county
22 adoption agency, to prepare an assessment as provided for in
23 subdivision (i) of Section 366.21 or subdivision (b) of Section
24 366.22. A hearing held pursuant to Section 366.26 shall be held
25 no later than 120 days from the date of the 12-month review at
26 which it is ordered, and at that hearing the court shall determine
27 whether adoption, legal guardianship, or long-term foster care is
28 the most appropriate plan for the child. *A hearing pursuant to*
29 *Section 366.26 shall not be ordered if the child is a nonminor*
30 *dependent. The court may order that a nonminor dependent who*
31 *otherwise meets the criteria described in Section 11403 remain in*
32 *long-term foster care.*

33 (j) The implementation and operation of the amendments to
34 subdivision (e) enacted at the 2005–06 Regular Session shall be
35 subject to appropriation through the budget process and by phase,
36 as provided in Section 366.35.

37 (k) The reviews conducted pursuant to subdivision (a) or (d)
38 may be conducted earlier than every six months if the court
39 determines that an earlier review is in the best interests of the child
40 or as court rules prescribe.

1 *(l) On and after October 1, 2010, at the review hearing that*
2 *occurs in the six-month period prior to the minor's attaining 18*
3 *years of age, and at every subsequent review hearing, the report*
4 *shall describe all of the following:*

5 *(1) The minor's plans to remain in foster care and plans to meet*
6 *one or more of the criteria as described in Section 11403 to*
7 *continue to receive AFDC-FC benefits.*

8 *(2) The efforts made and assistance provided to the minor by*
9 *the social worker or the probation officer so that the minor will*
10 *be able to meet the criteria.*

11 *(3) Efforts toward completing the items described in*
12 *subparagraph (E) of paragraph (2) of subdivision (a) of Section*
13 *391.*

14 *(m) On and after January 1, 2011, the reviews conducted*
15 *pursuant to subdivisions (e) and (h) for any nonminor dependent*
16 *shall be conducted in a manner that respects the nonminor's status*
17 *as a legal adult, be focused on the goals and services described*
18 *in the youth's transitional independent living case plan, including*
19 *efforts made to maintain connections with caring and permanently*
20 *committed adults, and attended as appropriate by additional*
21 *participants invited by the nonminor dependent. The review shall*
22 *include all the issues in subdivision (e), except paragraph (5) of*
23 *subdivision (e). The county child welfare or probation department,*
24 *or Indian tribe that has entered into an agreement pursuant to*
25 *Section 10553.1 shall prepare and present to the court a report*
26 *that addresses the youth's progress in meeting the goals in the*
27 *transitional independent living case plan and propose*
28 *modifications as necessary to further those goals. The report shall*
29 *document that the nonminor has received all the information and*
30 *documentation described in paragraph (2) of subdivision (e) of*
31 *Section 391. If the court is considering terminating dependency*
32 *jurisdiction for a nonminor dependent it shall first hold a hearing*
33 *pursuant to Section 391.*

34 *(n) On and after January 1, 2011, if a review hearing pursuant*
35 *to this section is the last review hearing to be held before the child*
36 *attains 18 years of age, the court shall ensure that the child's*
37 *transitional independent living case plan includes a plan for the*
38 *child to meet one or more of the criteria in Section 11403 so that*
39 *the child can become a nonminor dependent, and that the child*

1 *has been informed of his or her right to seek the termination of*
2 *dependency jurisdiction pursuant to Section 391.*

3 ~~(t)~~

4 (o) This section shall become operative on January 1, 2014.

5 ~~SEC. 19.~~

6 *SEC. 24.* Section 366.31 is added to the Welfare and Institutions
7 Code, to read:

8 366.31. (a) On and after October 1, 2010, with respect to a
9 nonminor dependent, as defined in subdivision (v) of Section
10 11400, who has a permanent plan of long-term foster care that was
11 ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26 the
12 court may continue jurisdiction of the nonminor as a dependent
13 of the juvenile court or may dismiss dependency jurisdiction
14 pursuant to Section 391.

15 (b) If the court continues dependency jurisdiction of the
16 nonminor as a dependent of the juvenile court, the court shall order
17 the development of a planned permanent living arrangement, which
18 may include continued placement with the current caregiver or
19 another licensed or approved caregiver or placement under a mutual
20 agreement pursuant to Section 11403, or in supervised independent
21 living, consistent with the youth's transitional independent living
22 case plan.

23 (c) If the court terminates its dependency jurisdiction over a
24 nonminor dependent pursuant to subdivision (a), it shall retain
25 jurisdiction over the youth pursuant to Section 303. ~~If~~ *On and after*
26 *January 1, 2013*, if the court has dismissed dependency jurisdiction
27 pursuant to subdivision (d) of Section 391, the nonminor
28 dependent, who has not attained 21 years of age, may subsequently
29 file a petition pursuant to subdivision (e) of Section 388 to have
30 dependency jurisdiction resumed and the court may vacate its
31 previous order dismissing dependency jurisdiction over the
32 nonminor dependent.

33 ~~SEC. 20.~~

34 *SEC. 25.* Section 366.4 of the Welfare and Institutions Code
35 is amended to read:

36 366.4. (a) Any minor for whom a guardianship has been
37 established resulting from the selection or implementation of a
38 permanency plan pursuant to Section 360 or 366.26, or a nonminor
39 who is eligible to receive Kin-GAP payments pursuant to Section
40 11363 or 11386, or a nonminor former dependent child of the

1 juvenile court who is receiving AFDC-FC benefits pursuant to
2 Section 11405, is within the jurisdiction of the juvenile court. For
3 those minors, Part 2 (commencing with Section 1500) of Division
4 4 of the Probate Code, relating to guardianship, shall not apply. If
5 no specific provision of this code or the California Rules of Court
6 is applicable, the provisions applicable to the administration of
7 estates under Part 4 (commencing with Section 2100) of Division
8 4 of the Probate Code govern so far as they are applicable to like
9 situations.

10 (b) Nonrelated legal guardians of the person of a minor
11 established as a result of a permanency plan selected pursuant to
12 Section 360 or 366.26 shall be exempt from the provisions of
13 Sections 2850 and 2851 of the Probate Code.

14 ~~SEC. 21.~~

15 *SEC. 26.* Section 388 of the Welfare and Institutions Code is
16 amended to read:

17 388. (a) Any parent or other person having an interest in a
18 child who is a dependent child of the juvenile court or the child
19 himself or herself through a properly appointed guardian may,
20 upon grounds of change of circumstance or new evidence, petition
21 the court in the same action in which the child was found to be a
22 dependent child of the juvenile court or in which a guardianship
23 was ordered pursuant to Section 360 for a hearing to change,
24 modify, or set aside any order of court previously made or to
25 terminate the jurisdiction of the court. The petition shall be verified
26 and, if made by a person other than the child, shall state the
27 petitioner's relationship to or interest in the child and shall set forth
28 in concise language any change of circumstance or new evidence
29 that are alleged to require the change of order or termination of
30 jurisdiction.

31 (b) Any person, including a child who is a dependent of the
32 juvenile court, may petition the court to assert a relationship as a
33 sibling related by blood, adoption, or affinity through a common
34 legal or biological parent to a child who is, or is the subject of a
35 petition for adjudication as, a dependent of the juvenile court, and
36 may request visitation with the dependent child, placement with
37 or near the dependent child, or consideration when determining
38 or implementing a case plan or permanent plan for the dependent
39 child or make any other request for an order which may be shown
40 to be in the best interest of the dependent child. The court may

1 appoint a guardian ad litem to file the petition for the dependent
2 child asserting the sibling relationship if the court determines that
3 the appointment is necessary for the best interests of the dependent
4 child. The petition shall be verified and shall set forth the
5 following:

6 (1) Through which parent he or she is related to the dependent
7 child.

8 (2) Whether he or she is related to the dependent child by blood,
9 adoption, or affinity.

10 (3) The request or order that the petitioner is seeking.

11 (4) Why that request or order is in the best interest of the
12 dependent child.

13 (c) (1) Any party, including a child who is a dependent of the
14 juvenile court, may petition the court, prior to the hearing set
15 pursuant to subdivision (f) of Section 366.21 for a child described
16 by paragraph (1) of subdivision (a) of Section 361.5, or within six
17 months of the initial dispositional hearing for a child described by
18 paragraph (2) or (3) of subdivision (a) of Section 361.5, to
19 terminate court-ordered reunification services provided under
20 subdivision (a) of Section 361.5 only if one of the following
21 conditions exists:

22 (A) It appears that a change of circumstance or new evidence
23 exists that satisfies a condition set forth in subdivision (b) or (e)
24 of Section 361.5 justifying termination of court-ordered
25 reunification services.

26 (B) The action or inaction of the parent or guardian creates a
27 substantial likelihood that reunification will not occur, including,
28 but not limited to, the parent or guardian's failure to visit the child,
29 or the failure of the parent or guardian to participate regularly and
30 make substantive progress in a court-ordered treatment plan.

31 (2) In determining whether the parent or guardian has failed to
32 visit the child or participate regularly or make progress in the
33 treatment plan, the court shall consider factors including, but not
34 limited to, the parent or guardian's incarceration,
35 institutionalization, or participation in a residential substance abuse
36 treatment program.

37 (3) The court shall terminate reunification services during the
38 above-described time periods only upon a finding by a
39 preponderance of evidence that reasonable services have been
40 offered or provided, and upon a finding of clear and convincing

1 evidence that one of the conditions in subparagraph (A) or (B) of
2 paragraph (1) exists.

3 (4) If the court terminates reunification services, it shall order
4 that a hearing pursuant to Section 366.26 be held within 120 days.

5 (d) If it appears that the best interests of the child may be
6 promoted by the proposed change of order, recognition of a sibling
7 relationship, termination of jurisdiction, or clear and convincing
8 evidence supports revocation or termination of court-ordered
9 reunification services, the court shall order that a hearing be held
10 and shall give prior notice, or cause prior notice to be given, to the
11 persons and by the means prescribed by Section 386, and, in those
12 instances in which the means of giving notice is not prescribed by
13 those sections, then by means the court prescribes.

14 (e) (1) On and after ~~October 1, 2010~~ *January 1, 2013*, a
15 nonminor who has not attained 21 years of age for whom the court
16 has dismissed dependency jurisdiction pursuant to Section 391
17 may petition the court in the same action in which the child was
18 found to be a dependent child of the juvenile court for a hearing
19 to resume the dependency jurisdiction of the court.

20 (2) The petition to resume dependency jurisdiction may be filed
21 in the juvenile court that retains jurisdiction under subdivision (b)
22 of Section 303 or the juvenile court in the county where the youth
23 resides. The juvenile court having jurisdiction under Section 303
24 shall receive the petition from the court in which the petition is
25 filed within five court days of the filing if the petition is filed in
26 the county of residence. Upon receipt of the petition, the court
27 shall order that a hearing be held and shall give prior notice, or
28 cause prior notice to be given, to the persons and by the means
29 prescribed by Section 386, except that notice to parents or former
30 guardian shall not be provided if the nonminor objects.

31 (3) The Judicial Council, by ~~October 1, 2010~~ *January 1, 2013*,
32 shall adopt rules of court to allow for telephonic appearances by
33 nonminor former dependents in these proceedings.

34 (4) Prior to the hearing on a petition to resume dependency
35 jurisdiction, the court shall order the county child welfare or
36 probation department or Indian tribe that has entered into an
37 agreement pursuant to Section 10553.1 to prepare a report for the
38 court addressing whether the nonminor is able to meet at least one
39 of the criteria set forth in Section 11403.

1 (5) The court, if it finds that the nonminor is able to meet at
2 least one of the criteria set forth in Section 11403, shall resume
3 dependency jurisdiction and order the county child welfare or
4 probation department or tribe to develop a new transitional
5 independent living case plan with the youth, which shall be
6 presented to the court within 60 days of the resumption of the
7 dependency jurisdiction.

8 ~~SEC. 22.~~

9 *SEC. 27.* Section 391 of the Welfare and Institutions Code is
10 amended to read:

11 391. (a) At any hearing to terminate jurisdiction over a
12 dependent child who has reached the age of majority, the county
13 welfare department shall do all of the following:

14 (1) Ensure that the child is present in court, unless the child
15 does not wish to appear in court, or document efforts by the county
16 welfare department to locate the child when the child is not
17 available.

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

20 (A) Written information concerning the child's dependency
21 case, including any known information regarding the child's Indian
22 heritage or tribal connections, if applicable, his or her family
23 history and placement history, any photographs of the child or his
24 or her family in the possession of the county welfare department,
25 other than forensic photographs, the whereabouts of any siblings
26 under the jurisdiction of the juvenile court, unless the court
27 determines that sibling contact would jeopardize the safety or
28 welfare of the sibling, directions on how to access the documents
29 the child is entitled to inspect under Section 827, and the date on
30 which the jurisdiction of the juvenile court would be terminated.

31 (B) The following documents:

32 (i) Social security card.

33 (ii) Certified birth certificate.

34 (iii) Health and education summary, as described in subdivision
35 (a) of Section 16010.

36 (iv) Driver's license, as described in Section 12500 of the
37 Vehicle Code, or identification card, as described in Section 13000
38 of the Vehicle Code.

39 (v) A letter prepared by the county welfare department that
40 includes the following information:

- 1 (I) The child’s name and date of birth.
- 2 (II) The dates during which the child was within the jurisdiction
- 3 of the juvenile court.
- 4 (III) A statement that the child was a foster youth in compliance
- 5 with state and federal financial aid documentation requirements.
- 6 (vi) If applicable, the death certificate of the parent or parents.
- 7 (vii) If applicable, proof of the child’s citizenship or legal
- 8 residence.
- 9 (C) Assistance in completing an application for Medi-Cal or
- 10 assistance in obtaining other health insurance; referral to
- 11 transitional housing, if available, or assistance in securing other
- 12 housing; and assistance in obtaining employment or other financial
- 13 support.
- 14 (D) Assistance in applying for admission to college or to a
- 15 vocational training program or other educational institution and
- 16 in obtaining financial aid, where appropriate.
- 17 (E) Assistance in maintaining relationships with individuals
- 18 who are important to a child who has been in out-of-home
- 19 placement for six months or longer from the date the child entered
- 20 foster care, based on the child’s best interests.
- 21 (3) The court may continue jurisdiction if it finds that the county
- 22 welfare department has not met the requirements of paragraph (2)
- 23 of subdivision (a) and that termination of jurisdiction would be
- 24 harmful to the best interests of the child. If the court determines
- 25 that continued jurisdiction is warranted pursuant to this section,
- 26 the continuation shall only be ordered for that period of time
- 27 necessary for the county welfare department to meet the
- 28 requirements of paragraph (2) of subdivision (a). This section shall
- 29 not be construed to limit the discretion of the juvenile court to
- 30 continue jurisdiction for other reasons. The court may terminate
- 31 jurisdiction if the county welfare department has offered the
- 32 required services, and the child either has refused the services or,
- 33 after reasonable efforts by the county welfare department, cannot
- 34 be located.
- 35 (b) The Judicial Council shall develop and implement standards,
- 36 and develop and adopt appropriate forms, necessary to implement
- 37 this section.
- 38 (c) This section shall remain in effect only until October 1, 2010,
- 39 and as of that date is repealed, unless a later enacted statute, that

1 is enacted before ~~October 1, 2010~~ *January 1, 2011*, deletes or
2 extends that date.

3 *SEC. 28. Section 388.1 is added to the Welfare and Institutions*
4 *Code, to read:*

5 *388.1. (a) Pursuant to Section 11378, the county social worker*
6 *for a child for whom a legal guardianship has been established*
7 *by the juvenile court pursuant to Section 366.26 shall petition the*
8 *juvenile court having jurisdiction over the guardianship pursuant*
9 *to Sections 366.3 and 366.4 to resume dependency jurisdiction,*
10 *for the sole purpose of determining whether the child is eligible*
11 *for federal guardianship assistance pursuant to the Fostering*
12 *Connections for Success and Increasing Adoptions Act of 2008*
13 *(42 U.S.C. Sec. 673).*

14 *(b) A petition filed pursuant to subdivision (a) shall set forth*
15 *both of the following:*

16 *(1) The dates during which the child received federal AFDC-FC*
17 *payments prior to the establishment of the relative guardianship.*

18 *(2) The date or dates on which the county social worker notified*
19 *the guardian, and the child if 12 years of age or older, of the*
20 *potential eligibility for federal guardianship assistance benefits*
21 *pursuant to Article 4.7 (commencing with Section 11385) of*
22 *Chapter 2 of Part 3 of Division 9, and obtained the consent of the*
23 *guardian, and the child if 12 years of age or older, to the filing of*
24 *the petition.*

25 *(c) If it appears that the petition meets the requirements of*
26 *subdivision (b), the court shall resume dependency jurisdiction*
27 *over the child, order that a hearing be held on the petition within*
28 *60 days, and cause notice to be given as prescribed by subdivision*
29 *(b) of Section 366.3.*

30 *(d) Prior to the hearing, the county social worker shall submit*
31 *a report stating the basis for the child's eligibility for federal*
32 *guardianship assistance, and attaching a copy of the negotiated*
33 *federal guardianship assistance agreement.*

34 *(e) If the court finds that the child appears to be eligible for*
35 *federal guardianship assistance and that a negotiated agreement*
36 *has been completed, the court shall order a permanent plan of*
37 *legal guardianship and terminate dependency jurisdiction,*
38 *pursuant to subdivision (a) of Section 366.3.*

39 *(f) This section shall become operative upon the date that the*
40 *Director of Social Services executes a declaration specifying that*

1 *increased federal financial participation in the TANF Emergency*
2 *Contingency Fund is no longer available pursuant to the federal*
3 *American Recovery and Reinvestment Act of 2009 (Public Law*
4 *111-5; ARRA) or subsequent federal legislation, including an*
5 *amendment to the ARRA, that either maintains or extends increased*
6 *federal financial participation. The director shall provide a copy*
7 *of the declaration to the appropriate policy and fiscal committee*
8 *of the Legislature.*

9 *(g) This section shall remain in effect only until January 1, 2013,*
10 *and as of that date is repealed, unless a later enacted statute, that*
11 *is enacted before January 1, 2013, deletes or extends that date.*

12 ~~SEC. 23.~~

13 SEC. 29. Section 391 is added to the Welfare and Institutions
14 Code, to read:

15 391. (a) The court shall not terminate jurisdiction over a
16 dependent youth who has reached 18 years of age unless a hearing
17 is conducted pursuant to this section.

18 (b) At any hearing for a dependent youth who has attained 18
19 years of age at which the court is considering termination of the
20 jurisdiction of the juvenile court and the accompanying foster care
21 services as described in Section 11403, the county welfare
22 department shall do all of the following:

23 (1) Ensure that the dependent is present in court, unless the
24 dependent does not wish to appear in court, or document efforts
25 by the county welfare department to locate the child when the child
26 is not available.

27 (2) Submit a report describing whether it is in the youth's best
28 interests to remain under the court's dependency jurisdiction, which
29 includes a recommended transitional independent living case plan
30 for any youth that the department determines would benefit from
31 continued jurisdiction.

32 (c) The court shall continue dependency jurisdiction for a
33 nonminor dependent, as defined in subdivision (v) of Section 11400
34 of the Welfare and Institutions Code, who meets the criteria of
35 Section 11403 unless the court finds that after reasonable and
36 documented efforts the nonminor cannot be located or does not
37 wish to remain subject to dependency jurisdiction. In making this
38 finding, the court shall ensure that the nonminor has been informed
39 of his or her options including the right to file a petition pursuant
40 to Section 388 to resume dependency jurisdiction, and had an

1 opportunity to confer with his or her counsel if counsel has been
2 appointed pursuant to Section 317.

3 (d) If the court terminates dependency jurisdiction, the nonminor
4 shall remain within the jurisdiction of the court until the nonminor
5 attains 21 years of age, although no review proceedings shall be
6 required. ~~A~~ *On and after January 1, 2013*, a nonminor may petition
7 the court pursuant to subdivision (e) of Section 388 to resume
8 dependency jurisdiction at any time before attaining 21 years of
9 age.

10 (e) Unless the nonminor does not wish to remain under the
11 dependency or delinquency jurisdiction of the court, or, after
12 reasonable efforts by the county welfare department the nonminor
13 cannot be located, the court shall not terminate dependency or
14 delinquency jurisdiction over a youth in foster care who has
15 reached 18 years of age until a hearing is conducted pursuant to
16 this section and the department has submitted a report verifying
17 that the following information, documents, and services have been
18 provided to the child:

19 (1) Written information concerning the child's dependency case,
20 including any known information regarding the child's Indian
21 heritage or tribal connections, if applicable, his or her family
22 history and placement history, any photographs of the child or his
23 or her family in the possession of the county welfare department,
24 other than forensic photographs, the whereabouts of any siblings
25 under the jurisdiction of the juvenile court, unless the court
26 determines that sibling contact would jeopardize the safety or
27 welfare of the sibling, directions on how to access the documents
28 the child is entitled to inspect under Section 827, and the date on
29 which the jurisdiction of the juvenile court would be terminated.

30 (2) The following documents:

31 (A) Social security card.

32 (B) Certified copy of his or her birth certificate.

33 (C) Health and education summary, as described in subdivision
34 (a) of Section 16010.

35 (D) Driver's license, as described in Section 12500 of the
36 Vehicle Code, or identification card, as described in Section 13000
37 of the Vehicle Code.

38 (E) A letter prepared by the county welfare department that
39 includes the following information:

40 (i) The child's name and date of birth.

- 1 (ii) The dates during which the child was within the jurisdiction
- 2 of the juvenile court.
- 3 (iii) A statement that the child was a foster youth in compliance
- 4 with state and federal financial aid documentation requirements.
- 5 (F) If applicable, the death certificate of the parent or parents.
- 6 (G) If applicable, proof of the child’s citizenship or legal
- 7 residence.
- 8 (3) Assistance in completing an application for Medi-Cal or
- 9 assistance in obtaining other health insurance.
- 10 (4) Referrals to transitional housing, if available, or assistance
- 11 in securing other housing.
- 12 (5) Assistance in obtaining employment or other financial
- 13 support.
- 14 (6) Assistance in applying for admission to college or to a
- 15 vocational training program or other educational institution and
- 16 in obtaining financial aid, where appropriate.
- 17 (7) Assistance in maintaining relationships with individuals
- 18 who are important to a child who has been in out-of-home
- 19 placement for six months or longer from the date the child entered
- 20 foster care, based on the child’s best interests.
- 21 (f) At the hearing closest to and before a dependent child’s 18th
- 22 birthday and every review hearing thereafter, the department shall
- 23 submit a report describing efforts toward completing the items
- 24 described in subparagraph (E) of paragraph (2) of subdivision (e).
- 25 (g) The Judicial Council shall develop and implement standards,
- 26 and develop and adopt appropriate forms necessary to implement
- 27 this provision.
- 28 ~~(h) This section shall become operative on October 1, 2010.~~
- 29 ~~SEC. 24.~~
- 30 *SEC. 30.* Section 10609.4 of the Welfare and Institutions Code
- 31 is amended to read:
- 32 10609.4. (a) On or before July 1, 2000, the State Department
- 33 of Social Services, in consultation with county and state
- 34 representatives, foster youth, and advocates, shall do both of the
- 35 following:
- 36 (1) Develop statewide standards for the implementation and
- 37 administration of the Independent Living Program established
- 38 pursuant to the federal Consolidated Omnibus Budget
- 39 Reconciliation Act of 1985 (Public Law 99-272).

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

4 (b) Each county department of social services shall include in
5 its annual Independent Living Program report both of the
6 following:

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

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

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

17 (C) Providing for individual and group counseling.

18 (D) Integrating and coordinating services otherwise available
19 to participants.

20 (E) Providing each participant with a written transitional
21 independent living plan that will be based on an assessment of his
22 or her needs, that includes information provided by persons who
23 have been identified by the participant as important to the
24 participant in cases in which the participant has been in
25 out-of-home placement in a group home for six months or longer
26 from the date the participant entered foster care, consistent with
27 the participant's best interests, and that will be incorporated into
28 his or her case plan.

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

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

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

39 (c) The county department of social services in a county that
40 provides transitional housing placement services pursuant to

1 paragraph (2) of subdivision (a) of Section 11403.2 shall include
2 in its annual Independent Living Program report a description of
3 currently available transitional housing resources in relation to the
4 number of emancipating pregnant or parenting foster youth in the
5 county, and a plan for meeting any unmet transitional housing
6 needs of the emancipating pregnant or parenting foster youth.

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

11 (e) In consultation with the County Welfare Directors
12 Association, the California Youth Connection, and other
13 stakeholders, the department shall develop and adopt emergency
14 regulations, no later than July 1, ~~2011~~ 2012, in accordance with
15 Section 11346.1 of the Government Code that counties shall be
16 required to meet when administering the Independent Living
17 Program and that are achievable within existing program resources
18 and any federal funds available for case management and case
19 plan review functions for nonminor dependents, as provided for
20 in the federal Fostering Connections to Success and Increasing
21 Adoptions Act of 2008 (Public Law 110-351). The initial adoption
22 of emergency regulations and one re-adoption of the initial
23 regulations shall be deemed to be an emergency and necessary for
24 the immediate preservation of the public peace, health and safety,
25 or general welfare. Initial emergency regulations and the first
26 re-adoption of those regulations shall be exempt from review by
27 the Office of Administrative Law. The initial emergency
28 regulations and the first re-adoption of those regulations authorized
29 by this subdivision shall be submitted to the Office of
30 Administrative Law for filing with the Secretary of State and each
31 shall remain in effect for no more than 180 days.

32 (f) The department, in consultation with representatives of the
33 Legislature, the County Welfare Directors Association, the Chief
34 Probation Officers of California, the Judicial Council,
35 representatives of tribes, the California Youth Connection, former
36 foster youth, child advocacy organizations, labor organizations,
37 dependency counsel for children, foster caregiver organizations,
38 and researchers, shall review and develop modifications needed
39 to the Independent Living Program to also serve the needs of
40 nonminor dependents, as defined in subdivision (v) of Section

1 11400, eligible for services pursuant to Section 11403.
2 Notwithstanding the Administrative Procedure Act, Chapter 3.5
3 (commencing with Section 11340) of Part 1 of Division 3 of Title
4 2 of the Government Code, through June 30, ~~2011~~ 2012, the
5 department shall prepare for implementation of the applicable
6 provisions of this section by publishing all-county letters or similar
7 instructions from the director by July 1, ~~2010~~ 2011, which shall
8 be applicable from October 1, ~~2010~~, to June 30, ~~2011~~ 2011, to
9 June 30, 2012, inclusive.

10 ~~SEC. 25.~~

11 *SEC. 31.* Section 11008.15 of the Welfare and Institutions
12 Code is amended to read:

13 11008.15. Notwithstanding Sections 11008.14 and 11267, the
14 department shall exercise the options of disregarding earned income
15 of a dependent child or ward of the juvenile court derived from
16 participation in the Job Training Partnership Act of 1982 (Public
17 Law 97-300), a dependent child or ward of the juvenile court who
18 is a full-time student pursuant to the Deficit Reduction Act of 1984
19 (Public Law 97-369), a dependent child or ward of the juvenile
20 court 16 years of age or older who is a participant in the
21 Independent Living Program pursuant to the Consolidated Omnibus
22 Budget Reconciliation Act of 1985 (Public Law 99-272), and a
23 nonminor dependent, as defined in subdivision (v) of Section 11400
24 who is participating in a transitional independent living case plan
25 pursuant to the federal Fostering Connections to Success and
26 Increasing Adoptions Act of 2008 (Public Law 110-351), provided
27 that the child's Independent Living Program case plan states that
28 the purpose of the employment is to enable the child to gain
29 knowledge of needed work skills, work habits, and the
30 responsibilities of maintaining employment.

31 ~~SEC. 26.~~

32 *SEC. 32.* Section 11155.5 of the Welfare and Institutions Code
33 is amended to read:

34 11155.5. (a) In addition to the personal property permitted by
35 other provisions of this part, a child declared a ward or dependent
36 child of the juvenile court, who is 16 years of age or older, or a
37 nonminor dependent, as defined in subdivision (v) of Section
38 11400, who is participating in a transitional independent living
39 case plan pursuant to the federal Fostering Connections to Success
40 and Increasing Adoptions Act of 2008 (Public Law 110-351), may

1 retain resources with a combined value of not more than ten
 2 thousand dollars (\$10,000), consistent with Section 472(a) of the
 3 federal Social Security Act (42 U.S.C. Sec. 672(a)) as contained
 4 in the federal Foster Care Independence Act of 1999 (Public Law
 5 106-169) and the child’s transitional independent living plan. Any
 6 cash savings shall be the child’s own money and shall be deposited
 7 by the child or on behalf of the child in any bank or savings and
 8 loan institution whose deposits are insured by the Federal Deposit
 9 Insurance Corporation or the Federal Savings and Loan Insurance
 10 Corporation. The cash savings shall be for the child’s use for
 11 purposes directly related to the child’s or nonminor dependents’
 12 transitional independent living case plan goals.

13 (b) The withdrawal of the savings by a child shall require the
 14 written approval of the child’s probation officer or social worker
 15 and shall be directly related to the goal of emancipation.

16 ~~SEC. 27.~~

17 *SEC. 33.* Section 11253 of the Welfare and Institutions Code
 18 is amended to read:

19 11253. (a) Aid shall not be granted under this chapter to or on
 20 behalf of any child who has attained 18 years of age unless all of
 21 the following apply:

22 (1) The child is less than 19 years of age and is attending high
 23 school or the equivalent level of vocational or technical training
 24 on a full-time basis.

25 (2) The child can reasonably be expected to complete the
 26 educational or training program before his or her 19th birthday.

27 (b) Aid shall be granted under this chapter to or on behalf of
 28 any nonminor dependent, as defined in subdivision (v) of Section
 29 11400, if the nonminor dependent is placed in the approved home
 30 of a relative under the supervision of the county child welfare or
 31 probation department or Indian tribe that has entered into an
 32 agreement pursuant to Section 10553.1, and the nonminor
 33 dependent otherwise meets the criteria of Section 11403.

34 ~~SEC. 28.~~

35 *SEC. 34.* Section 11360 of the Welfare and Institutions Code
 36 is amended to read:

37 11360. The department shall establish a state-funded Kinship
 38 Guardianship Assistance Payment Program as specified by this
 39 article.

1 ~~SEC. 29.~~

2 *SEC. 35.* Section 11361 of the Welfare and Institutions Code
3 is amended to read:

4 11361. The Legislature finds and declares that the continuation
5 of the state-funded Kinship Guardianship Assistance Payment
6 Program is intended to enhance family preservation and stability
7 by recognizing that some dependent children and wards of the
8 juvenile court who are not otherwise eligible under Subtitle IV-E
9 (commencing with Section 470) of the federal Social Security Act
10 (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements
11 with relatives funded under the CalWORKs program pursuant to
12 Section 11450, that these placements are the permanent plan for
13 the child, that dependencies can be dismissed pursuant to Section
14 366.3 with legal guardianship granted to the relative, and that there
15 is no need for continued governmental intervention in the family
16 life through ongoing, scheduled court and social services
17 supervision of the placement. Continuation of the state-funded
18 Kin-GAP Program is necessary to ensure that wards and dependent
19 children of the juvenile court whose placement in the home of an
20 approved relative is funded under the CalWORKs program are
21 equally eligible for the benefits derived from legal permanency
22 with the related guardian and that the state can maximize
23 improvements to federal permanency outcome measures by exiting
24 nonfederally eligible youth to the state’s subsidized kinship
25 guardianship program.

26 ~~SEC. 30.~~

27 *SEC. 36.* Section 11362 of the Welfare and Institutions Code
28 is amended to read:

29 11362. For purposes of this article, the following definitions
30 shall apply:

31 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”
32 means the state-funded aid provided under the terms of this article
33 on behalf of children in kinship care who are not eligible for
34 federally funded Kin-GAP pursuant to Section 11385.

35 (b) “Kinship guardian” means a person who (1) has been
36 appointed the legal guardian of a dependent child pursuant to
37 Section 366.26 and (2) is a relative of the child.

38 (c) “Relative” means an adult who is related to the child by
39 blood, adoption, or affinity within the fifth degree of kinship,
40 including stepparents, stepsiblings, and all relatives whose status

1 is preceded by the words “great,” “great-great,” or “grand” or the
2 spouse of any of those persons even if the marriage was terminated
3 by death or dissolution.

4 ~~SEC. 31.~~

5 *SEC. 37.* Section 11363 of the Welfare and Institutions Code
6 is amended to read:

7 11363. (a) Aid in the form of state-funded Kin-GAP shall be
8 provided under this article on behalf of any child under 18 years
9 of age and to any eligible youth under 19 years of age as provided
10 in Section 11403 or 11403.01, who meets all of the following
11 conditions:

12 (1) Has been adjudged a dependent child of the juvenile court
13 pursuant to Section 300, or, effective October 1, 2006, a ward of
14 the juvenile court pursuant to Section 601 or 602.

15 (2) Has been living with a relative for at least six consecutive
16 months.

17 (3) Has had a kinship guardianship with that relative established
18 as the result of the implementation of a permanent plan pursuant
19 to Section 366.26.

20 (4) Has had his or her dependency jurisdiction terminated after
21 January 1, 2000, pursuant to Section 366.3, or his or her wardship
22 terminated pursuant to subdivision (e) of Section 728, concurrently
23 or subsequently to the establishment of the kinship guardianship.

24 (b) If the conditions specified in subdivision (a) are met and,
25 subsequent to the termination of dependency jurisdiction, any
26 parent or person having an interest files with the juvenile court a
27 petition pursuant to Section 388 to change, modify, or set aside an
28 order of the court, Kin-GAP payments shall continue unless and
29 until the juvenile court, after holding a hearing, orders the child
30 removed from the home of the guardian, terminates the
31 guardianship, or otherwise grants the relief requested in the
32 petition.

33 (c) ~~Through September 30~~ *December 31, 2010*, Kin-GAP
34 payments shall continue after the child’s 18th birthday if the
35 conditions specified in Section 11403 are met. ~~On and after October~~
36 ~~1, 2010~~ *January 1, 2011*, Section 11403.01 shall apply to an
37 eligible youth whose Kin-GAP aid payments commenced before
38 the youth attained 16 years of age.

39 (d) ~~Commencing October 1, 2010~~ *January 1, 2011*, state-funded
40 Kin-GAP payments shall continue for youths who have attained

1 18 years of age and are under 21 years of age if they attained 16
2 years of age before the Kin-GAP aid payments commenced and
3 the youth meets one or more of the following criteria:

4 (1) The youth is completing secondary education or a program
5 leading to an equivalent credential.

6 (2) The youth is enrolled in an institution that provides
7 postsecondary or vocational education.

8 (3) The youth is participating in a program or activity designed
9 to promote, or remove barriers to, employment.

10 (4) The youth is employed for at least 80 hours per month.

11 (5) The youth is incapable of doing any of the activities
12 described in paragraphs (1) to (4), inclusive, due to a medical
13 condition and the incapability is supported by regularly updated
14 information in the case plan of the youth.

15 (e) Termination of the guardianship with a kinship guardian
16 shall terminate eligibility for Kin-GAP unless the conditions in
17 Section 11403 apply; provided, however, that if an alternate
18 guardian or coguardian is appointed pursuant to Section 366.3 who
19 is also a kinship guardian, the alternate or coguardian shall be
20 entitled to receive Kin-GAP on behalf of the child pursuant to this
21 article. A new period of six months of placement with the alternate
22 guardian or coguardian shall not be required if that alternate
23 guardian or coguardian has been assessed pursuant to Sections
24 361.3 and 361.4 and the court terminates dependency jurisdiction.

25 ~~SEC. 32.~~

26 *SEC. 38.* Section 11364 of the Welfare and Institutions Code
27 is repealed.

28 ~~SEC. 33.~~

29 *SEC. 39.* Section 11364 is added to the Welfare and Institutions
30 Code, to read:

31 11364. (a) In order to receive payments under this article, the
32 county child welfare agency or probation department or Indian
33 tribe that entered into an agreement pursuant to Section 10553.1
34 shall negotiate and enter into a written, binding, kinship
35 guardianship assistance agreement with the relative guardian of
36 an eligible child, and provide the relative guardian with a copy of
37 the agreement.

38 (b) The agreement shall specify, at a minimum, all of the
39 following:

1 (1) The amount of and manner in which the kinship guardianship
2 assistance payment will be provided under the agreement, and the
3 manner in which the agreement may be adjusted periodically, but
4 no less frequently than every two years, in consultation with the
5 relative guardian, based on the circumstances of the relative
6 guardian and the needs of the child.

7 (2) Additional services and assistance for which the child and
8 relative guardian will be eligible under the agreement.

9 (3) A procedure by which the relative guardian may apply for
10 additional services, as needed, including the filing of a petition
11 under Section 388 to have dependency jurisdiction resumed
12 pursuant to subdivision (b) of Section 366.3.

13 (c) In accordance with the Kin-GAP agreement, the relative
14 guardian shall be paid an amount of aid based on the child's needs
15 otherwise covered in AFDC-FC payments and the circumstances
16 of the relative guardian but that shall not exceed the foster care
17 maintenance payment that would have been paid based on the
18 age-related state-approved foster family home care rate and any
19 applicable specialized care increment for a child placed in a
20 licensed or approved family home pursuant to subdivisions (a) to
21 (d), inclusive, of Section 11461. In addition, the rate paid for a
22 child eligible for a Kin-GAP payment shall include an amount
23 equal to the clothing allowance, as set forth in subdivision (f) of
24 Section 11461, including any applicable rate adjustments. For a
25 child eligible for a Kin-GAP payment who is a teen parent, the
26 rate shall include the two hundred dollar (\$200) monthly payment
27 made to the relative caregiver in a whole family foster home
28 pursuant to paragraph (3) of subdivision (d) of Section 11465.

29 (d) The county child welfare agency or probation department
30 or Indian tribe that entered into an agreement pursuant to Section
31 10553.1 shall provide the prospective relative guardian with
32 information, in writing, on the availability of the Kin-GAP program
33 with an explanation of the difference between these benefits and
34 Adoption Assistance Program benefits and AFDC-FC benefits.
35 The agency shall also provide the prospective relative guardian
36 with information on the availability of mental health services
37 through the Medi-Cal program or other programs.

38 (e) The Kin-GAP agreement shall also specify the responsibility
39 of the relative guardian for reporting changes in the needs of the

1 child or the circumstances of the relative guardian that effect
2 payment.

3 (f) The county child welfare agency, probation department, or
4 Indian tribe, as appropriate, shall assess the needs of the child and
5 the circumstances of the related guardian and is responsible for
6 determining that the child meets the eligibility criteria for payment.

7 (g) Payments on behalf of a child who is a recipient of Kin-GAP
8 benefits and who is also a consumer of regional center services
9 shall be based on the rates established by the State Department of
10 Social Services pursuant to Section 11464.

11 ~~SEC. 34.~~

12 *SEC. 40.* Section 11365 of the Welfare and Institutions Code
13 is amended to read:

14 11365. State-funded Kin-GAP benefits shall be paid to the
15 kinship guardian on a per child basis. If the conditions in Section
16 11403 or 11403.01 apply, the payment in whole or in part may be
17 paid to the eligible nonminor directly.

18 ~~SEC. 35.~~

19 *SEC. 41.* Section 11366 of the Welfare and Institutions Code
20 is amended to read:

21 11366. A child who is eligible to receive Medi-Cal benefits
22 with no share of cost shall maintain that eligibility notwithstanding
23 the receipt of state-funded Kin-GAP by his or her kinship guardian.

24 ~~SEC. 36.~~

25 *SEC. 42.* Section 11367 of the Welfare and Institutions Code
26 is amended to read:

27 11367. State-funded Kin-GAP, in an amount equal to the
28 applicable regional per-child CalWORKs grant, shall be paid by
29 the state. The supplemental clothing allowance shall be paid
30 pursuant to paragraph (5) of subdivision (f) of Section 11461. The
31 balance of Kin-GAP shall be paid in equal portions by the state
32 and the counties. Notwithstanding Section 11216, effective July
33 1, 2006, the state share of benefits and administration of the
34 state-funded Kin-GAP Program shall be funded with General Fund
35 resources.

36 ~~SEC. 37.~~

37 *SEC. 43.* Section 11368 of the Welfare and Institutions Code
38 is repealed.

1 ~~SEC. 38.~~

2 *SEC. 44.* Section 11369 of the Welfare and Institutions Code
3 is amended to read:

4 11369. (a) Notwithstanding the Administrative Procedure Act,
5 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
6 3 of Title 2 of the Government Code, through June 30, 2010, the
7 department may implement the applicable provisions of the
8 state-funded Kin-GAP Program through all-county letters or similar
9 instructions from the director.

10 (b) The director shall adopt regulations as otherwise necessary,
11 to implement the applicable provisions of the Kin-GAP Program
12 no later than July 1, 2010. Emergency regulations to implement
13 the applicable provisions of this act may be adopted by the director
14 in accordance with the Administrative Procedure Act. The initial
15 adoption of the emergency regulations and one readoption of the
16 initial regulations shall be deemed to be an emergency and
17 necessary for the immediate preservation of the public peace,
18 health, safety or general welfare. Initial emergency regulations
19 and the first readoption of those emergency regulations shall be
20 exempt from review by the Office of Administrative Law. The
21 emergency regulations authorized by this section shall be submitted
22 to the Office of Administrative Law for filing with the Secretary
23 of State and shall remain in effect for no more than 180 days.

24 ~~SEC. 39.~~

25 *SEC. 45.* Section 11370 of the Welfare and Institutions Code
26 is repealed.

27 ~~SEC. 40.~~

28 *SEC. 46.* Section 11371 of the Welfare and Institutions Code
29 is amended to read:

30 11371. Income to the child, including the state-funded Kin-GAP
31 payment, shall not be considered income to the kinship guardian
32 for purposes of determining the kinship guardian's eligibility for
33 any other aid program, unless required by federal law as a condition
34 of the receipt of federal financial participation.

35 ~~SEC. 41.~~

36 *SEC. 47.* Section 11372 of the Welfare and Institutions Code
37 is amended to read:

38 11372. (a) Notwithstanding any other provision of law, the
39 state-funded Kinship Guardianship Assistance Payment Program

1 implemented under this article is exempt from the provisions of
2 Chapter 2 (commencing with Section 11200) of Part 3.

3 (b) A person who is a kinship guardian under this article, and
4 who has met the requirements of Section 361.4, shall be exempt
5 from Chapter 4.6 (commencing with Section 10830) of Part 2
6 governing the statewide fingerprint imaging system. A guardian
7 who is also an applicant for or a recipient of benefits under the
8 CalWORKs program, Chapter 2 (commencing with Section 11200)
9 of Part 3, or the Food Stamp program, Chapter 10 (commencing
10 with Section 18900) of Part 6 shall comply with the statewide
11 fingerprint imaging system requirements applicable to those
12 programs.

13 (c) Any exemptions exercised pursuant to this section shall be
14 implemented in accordance with Section 11369.

15 ~~SEC. 42.~~

16 *SEC. 48.* Section 11373 of the Welfare and Institutions Code
17 is repealed.

18 ~~SEC. 43.~~

19 *SEC. 49.* Section 11374 of the Welfare and Institutions Code
20 is amended to read:

21 11374. (a) Each county that formally had court ordered
22 jurisdiction under Section 300, 601, or 602 over a child receiving
23 benefits under the state-funded Kin-GAP program shall be
24 responsible for paying the child's aid regardless of where the child
25 actually resides, so long as the child resides in California.

26 (b) Notwithstanding any other provision of law, when a child
27 receiving benefits under the CalWORKs program becomes eligible
28 for benefits under the state-funded Kin-GAP program during any
29 month, the child shall continue to receive benefits under the
30 CalWORKs program, as appropriate, to the end of that calendar
31 month, and Kin-GAP payments shall begin the first day of the
32 following month.

33 ~~SEC. 44.~~

34 *SEC. 50.* Section 11375 of the Welfare and Institutions Code
35 is amended to read:

36 11375. The following shall apply to any child or nonminor in
37 receipt of state-funded Kin-GAP benefits:

38 (a) He or she is eligible to request and receive independent living
39 services pursuant to Section 10609.3.

1 (b) He or she may retain cash savings, not to exceed ten
2 thousand dollars (\$10,000), including interest, in addition to any
3 other property accumulated pursuant to Section 11257 or 11257.5.

4 (c) He or she shall have earned income disregarded pursuant to
5 Section 11008.15.

6 ~~SEC. 45.~~

7 *SEC. 51.* Section 11376 of the Welfare and Institutions Code
8 is amended to read:

9 11376. A foster child who has become the subject of a legal
10 guardianship, who is receiving assistance under the Kin-GAP
11 Program under this article or under Article 4.7 (commencing with
12 Section 11385), including Medi-Cal, and whose foster care court
13 supervision has been terminated, shall be provided medically
14 necessary specialty mental health services by the local mental
15 health plan in the county of residence of his or her legal guardian,
16 pursuant to all of the following:

17 (a) The host county mental health plan shall be responsible for
18 submitting the treatment authorization request (TAR) to the mental
19 health plan in the county of origin.

20 (b) The requesting public or private service provider shall
21 prepare the TAR.

22 (c) The county of origin shall retain responsibility for
23 authorization and reauthorization of services utilizing an expedited
24 TAR process.

25 ~~SEC. 46.~~

26 *SEC. 52.* Section 11377 is added to the Welfare and Institutions
27 Code, to read:

28 11377. Effective January 1, ~~2010~~ 2012, and through December
29 31, ~~2010~~ 2012, the county child welfare department or probation
30 department, or Indian tribe, as appropriate, at the time of the
31 Kin-GAP annual redetermination, shall meet with the relative
32 guardian and the nonfederally eligible child and enter into an
33 agreement for state-funded Kin-GAP as described in Section
34 11364.

35 *SEC. 53.* Section 11378 is added to the Welfare and Institutions
36 Code, to read:

37 11378. (a) *It is the intent of the Legislature to provide a*
38 *seamless and minimally intrusive process to allow an otherwise*
39 *federally eligible child who is receiving assistance payments under*
40 *this article to access the benefits of federally funded Kin-GAP*

1 pursuant to Article 4.7 (commencing with Section 11385). The
2 transition to federally funded Kin-GAP shall be accomplished with
3 minimal disruption to the existing relative guardian and the child,
4 and with no break in the continuity of assistance payments.

5 (b) Effective on the date that the director executes the
6 declaration described in subdivision (f) of Section 388.1, at the
7 time of the annual redetermination of the state-funded Kin-GAP
8 benefits, the county shall determine whether the child was receiving
9 federal AFDC-FC payments prior to receiving Kin-GAP, while a
10 dependent child or ward of the juvenile court. Those children
11 determined to have previously received AFDC-FC payments shall
12 be reassigned to the county social worker, who shall inform the
13 relative guardian, and the child if over 12 years of age, of the
14 benefits of transitioning to federal Kin-GAP and the process for
15 making the transition. The process described in this subdivision
16 shall continue for at least 12 calendar months, or until all
17 state-funded Kin-GAP cases as of the effective date described in
18 this subdivision have been processed.

19 (c) With the consent of the relative guardian, and the child if
20 over 12 years of age, the county having jurisdiction over the
21 guardianship pursuant to Section 366.4 shall file a petition
22 pursuant to Section 388.1, requesting the juvenile court to resume
23 its dependency jurisdiction over the child, without terminating or
24 modifying the legal guardianship or causing a disruption to the
25 guardian's continuing care of the child.

26 (d) The county social worker shall prepare a report for the court
27 describing the child's eligibility for federal Kin-GAP as provided
28 for in Article 4.7 (commencing with Section 11385), and the steps
29 that the social worker will undertake to qualify the child for those
30 benefits.

31 (e) Upon resumption of the dependency jurisdiction, the county
32 shall reinstate the child's eligibility to federal Title IV-E foster
33 care benefits under the child's original petition pursuant to Section
34 300, in order that state-funded Kin-GAP benefits are terminated
35 and federal AFDC-FC payments are made, prorated from the date
36 of the hearing that ordered the resumption of the dependency with
37 no break in the continuity of aid. Immediately following restoration
38 of the child's Title IV-E status, the county shall meet with the
39 relative guardian and the child and enter into a negotiated

1 agreement for federal Kin-GAP assistance benefits pursuant to
 2 Section 11387.

3 (f) Upon completion of the negotiated Kin-GAP agreement, but
 4 not later than 60 days after the resumption of dependency
 5 jurisdiction, the county social worker shall file a report with the
 6 court describing the completion of the negotiated Kin-GAP
 7 agreement and requesting that the court dismiss dependency
 8 jurisdiction over the child. Upon the dismissal of dependency
 9 jurisdiction, the child shall be eligible for federally funded
 10 Kin-GAP pursuant to Article 4.7 (commencing with Section 11385).

11 (g) The county shall terminate the federal AFDC-FC payment,
 12 and with no break in the continuity of aid, shall commence
 13 payments under the federal Kin-GAP program pursuant to Article
 14 4.7 (commencing with Section 11385).

15 ~~SEC. 47.~~

16 SEC. 54. Article 4.7 (commencing with Section 11385) is added
 17 to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
 18 Code, to read:

19

20 Article 4.7. Kinship Guardianship Assistance Payments for
 21 Children

22

23 ~~11385. (a) Effective January 1, 2010, the State Department of~~
 24 ~~11385. (a) (1) The State Department of Social Services shall~~
 25 exercise its option under Section 671(a)(28) of Title 42 of the
 26 United States Code to enter into kinship guardianship assistance
 27 agreements to provide federally funded kinship guardianship
 28 assistance payments on behalf of children to grandparents and
 29 other relatives who have assumed legal guardianship of the children
 30 for whom they have cared as approved relative caregivers and for
 31 whom they have committed to care on a permanent basis, as
 32 provided in Section 673(d) of Title 42 of the United States Code.

33 (2) This article shall become operative upon the date that the
 34 Director of Social Services executes a declaration specifying that
 35 increased federal financial participation in the TANF Emergency
 36 Contingency Fund is no longer available pursuant to the federal
 37 American Recovery and Reinvestment Act of 2009 (Public Law
 38 111-5; ARRA) or subsequent federal legislation, including an
 39 amendment to the ARRA, that maintains or extends increased
 40 federal financial participation. The director shall provide a copy

1 *of the declaration to the appropriate policy and fiscal committees*
2 *of the Legislature.*

3 (b) A kinship guardianship assistance payment made under this
4 article on behalf of a child shall not exceed the rate for children
5 placed in a licensed or approved home pursuant to Section 11461.

6 (c) It is the intent of the Legislature to ensure that relative
7 guardians of children in long-term, stable placements who
8 previously were receiving kinship guardianship assistance
9 payments on behalf of those children under Article 4.5
10 (commencing with Section 11360) shall instead receive assistance
11 under this article to the extent that those children are otherwise
12 eligible under Subtitle IV-E (commencing with Section 470 of the
13 federal Social Security Act (42 U.S.C. Sec. 670 et seq.)).

14 (d) It is the intent of the Legislature that no county currently
15 participating in the Child Welfare Demonstration Capped
16 Allocation Project be adversely impacted by the department's
17 exercise of its option under Section 671(a)(28) of Title 42 of the
18 United States Code to enter into kinship assistance agreements as
19 provided in Section 673(d) of Title 42 of the United States Code.
20 Therefore, the department shall negotiate with the United States
21 Department of Health and Human Services on behalf of those
22 counties that are currently participating in the demonstration project
23 to insure that those counties receive reimbursement for these new
24 programs outside of the provisions of those counties' waiver under
25 Subtitle IV-E (commencing with Section 470 of the federal Social
26 Security Act (42 U.S.C. Sec. 670 et seq.)).

27 11386. Aid shall be provided under this article on behalf of a
28 child under 18 years of age and to any eligible youth under 19
29 years of age as provided in Section 11403 or 11403.01, under all
30 of the following conditions:

31 (a) The child meets both of the following requirements:

32 (1) He or she has been removed from his or her home pursuant
33 to a voluntary placement agreement, or as a result of judicial
34 determination, including being adjudged a dependent child of the
35 court, pursuant to Section 300, or a ward of the court, pursuant to
36 Section 601 or 602, to the effect that continuation in the home
37 would be contrary to the welfare of the child.

38 (2) He or she has been eligible for federal foster care
39 maintenance payments under Article 5 (commencing with Section

1 11400) while residing for at least six consecutive months in the
2 approved home of the prospective relative guardian.

3 (b) Being returned to the parental home or adopted are not
4 appropriate permanency options for the child.

5 (c) The child demonstrates a strong attachment to the relative
6 guardian, and the relative guardian has a strong commitment to
7 caring permanently for the child and, with respect to the child who
8 has attained 12 years of age, the child has been consulted regarding
9 the kinship guardianship arrangement.

10 (d) The child has had a kinship guardianship with that relative
11 established as the result of the implementation of a permanent plan
12 pursuant to Section 360 or Section 366.26.

13 (e) The child has had his or her dependency jurisdiction
14 terminated pursuant to Section 366.3, or his or her wardship
15 terminated pursuant to subdivision (e) of Section 728, concurrently
16 or subsequently to the establishment of the kinship guardianship.

17 (f) If the conditions specified in subdivisions (a) through (e),
18 inclusive, are met and, subsequent to the termination of dependency
19 jurisdiction, any parent or person having an interest files with the
20 juvenile court a petition pursuant to Section 388 to change, modify,
21 or set aside an order of the court, Kin-GAP payments shall continue
22 unless and until the juvenile court orders the child removed from
23 the home of the guardian, terminates the guardianship, or otherwise
24 grants the relief requested in the petition after holding a hearing.

25 (g) Through ~~September 30, 2010~~ *December 31, 2011*, Kin-GAP
26 payments shall continue after the child's 18th birthday if the
27 conditions specified in Section 11403 are met. On and after ~~October~~
28 ~~1, 2010~~ *January 1, 2012*, Section 11403.01 shall apply to an
29 eligible youth whose Kin-GAP aid payments commenced before
30 the youth attained 16 years of age. Effective ~~October 1, 2010~~
31 *January 1, 2012*, Kin-GAP payments shall continue for youths
32 who have attained 18 years of age and are under ~~21~~ *19* years of
33 age if they attained 16 years of age before the Kin-GAP negotiated
34 agreement payments ~~commenced and the youth meets~~ *commenced*.
35 *Effective January 1, 2013, Kin-GAP payments shall continue for*
36 *youths who have attained 18 years of age and are under 20 years*
37 *of age, if they reached 16 years of age before the Kin-GAP*
38 *negotiated payments commenced. Effective January 1, 2014,*
39 *Kin-GAP payments shall continue for youths who have attained*
40 *18 years of age and are under 21 years of age, if they reached 16*

1 *years of age before the Kin-GAP negotiated payments commenced.*
2 *To be eligible for continued payments, the youth shall meet one*
3 *or more of the following criteria:*

4 (1) The youth is completing secondary education or a program
5 leading to an equivalent credential.

6 (2) The youth is enrolled in an institution which provides
7 postsecondary or vocational education.

8 (3) The youth is participating in a program or activity designed
9 to promote, or remove barriers to, employment.

10 (4) The youth is employed for at least 80 hours per month.

11 (5) The youth is incapable of doing any of the activities
12 described in paragraphs (1) through (4), inclusive, due to a medical
13 condition, and that incapability is supported by regularly updated
14 information in the case plan of the youth.

15 Payments made to a nonminor pursuant to the conditions
16 specified in Section 11403 or 11403.01 may be paid in whole or
17 part to the eligible youth directly.

18 (h) Termination of the guardianship with a kinship guardian
19 shall terminate eligibility for Kin-GAP, unless the conditions of
20 Section 11403 apply, provided, however, that if an alternate
21 guardian or coguardian is appointed pursuant to Section 366.3 who
22 is also a kinship guardian, the alternate or coguardian shall be
23 entitled to receive Kin-GAP on behalf of the child pursuant to this
24 article. A new period of six months of placement with the alternate
25 guardian or coguardian shall not be required if that alternate
26 guardian or coguardian has been assessed pursuant to Section 361.3
27 and Section 361.4 and the court terminates dependency jurisdiction.

28 11387. (a) In order to receive federal financial participation
29 for payments under this article, the county child welfare agency
30 or probation department or Indian tribe that entered into an
31 agreement pursuant to Section 10553.1 shall negotiate and enter
32 into a written, binding, kinship guardianship assistance agreement
33 with the relative guardian of an eligible child, and provide the
34 relative guardian with a copy of the agreement.

35 (b) The agreement shall specify, at a minimum, all of the
36 following:

37 (1) The amount of and manner in which the kinship guardianship
38 assistance payment will be provided under the agreement, and the
39 manner in which the agreement may be adjusted periodically, but
40 no less frequently than every two years, in consultation with the

1 relative guardian, based on the circumstances of the relative
2 guardian and the needs of the child.

3 (2) Additional services and assistance for which the child and
4 relative guardian will be eligible under the agreement.

5 (3) A procedure by which the relative guardian may apply for
6 additional services, as needed, including, but not limited to, the
7 filing of a petition under Section 388 to have dependency
8 jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

9 (4) Subject to subdivision (d), that the county child welfare
10 agency or probation department or Indian tribe that entered into
11 an agreement pursuant to Section 10553.1 shall pay the total cost
12 of nonrecurring expenses associated with obtaining legal
13 guardianship of the child, to the extent that the total cost does not
14 exceed two thousand dollars (\$2,000).

15 (c) The agreement shall provide that it shall remain in effect
16 regardless of the state of residency of the relative guardian.

17 (d) Nothing in paragraph (4) of subdivision (b) shall be
18 construed to affect the ability of the state to obtain reimbursement
19 from the federal government for the costs described in that
20 paragraph.

21 (e) In accordance with the Kin-GAP agreement, the relative
22 guardian shall be paid an amount of aid based on the child's needs
23 otherwise covered in AFDC-FC payments and the circumstances
24 of the relative guardian but that shall not exceed the foster care
25 maintenance payment that would have been paid based on the
26 age-related state-approved foster family home care rate and any
27 applicable specialized care increment for a child placed in a
28 licensed or approved family home pursuant to subdivisions (a) to
29 (d), inclusive, of Section 11461. In addition, the rate paid for a
30 child eligible for a Kin-GAP payment shall include an amount
31 equal to the clothing allowance, as set forth in subdivision (f) of
32 Section 11461, including any applicable rate adjustments. For a
33 child eligible for a Kin-GAP payment who is a teen parent, the
34 rate shall include the two hundred dollar (\$200) monthly payment
35 made to the relative caregiver in a whole family foster home
36 pursuant to paragraph (3) of subdivision (d) of Section 11465.

37 (f) The county child welfare agency or probation department
38 or Indian tribe that entered into an agreement pursuant to Section
39 10553.1 shall provide the prospective relative guardian with
40 information, in writing, on the availability of the federal Kin-GAP

1 program with an explanation of the difference between these
2 benefits and Adoption Assistance Program benefits and AFDC-FC
3 benefits. The agency shall also provide the prospective relative
4 guardian with information on the availability of mental health
5 services through the Medi-Cal program or other programs.

6 (g) The Kin-GAP agreement shall also specify the responsibility
7 of the relative guardian for reporting changes in the needs of the
8 child or the circumstances of the relative guardian that affect
9 payment.

10 (h) The county child welfare agency, probation department, or
11 Indian tribe, as appropriate, shall assess the needs of the child and
12 the circumstances of the related guardian and is responsible for
13 determining that the child meets the eligibility criteria for payment.

14 (i) Payments on behalf of a child who is a recipient of Kin-GAP
15 benefits and who is also a consumer of regional center services
16 shall be based on the rates established by the State Department of
17 Social Services pursuant to Section 11464.

18 11388. If a federally eligible child described in Section 11386
19 has one or more siblings who are not so described, the child and
20 any sibling of the child may be placed in the same kinship
21 guardianship arrangement, in accordance with Section 671(a)(31)
22 of Title 42 of the United States Code, if the county child welfare
23 department or probation department or Indian tribe that entered
24 into an agreement pursuant to Section 10553.1 and the prospective
25 relative guardian agree on the appropriateness of the arrangement
26 for the siblings. Kinship guardianship assistance payments may
27 be paid on behalf of each sibling, at a per-child rate, placed in
28 accordance with this section.

29 11389. A child eligible for a Kin-GAP payment under this
30 article is categorically eligible for Medi-Cal at no share of cost
31 pursuant to Section 473(b)(3) of the federal Social Security Act
32 (42 U.S.C. Sec. 673(b)(3)).

33 11390. (a) A person who is a kinship guardian under this
34 article, and who has met the requirements of Section 361.4, shall
35 be exempt from Chapter 4.6 (commencing with Section 10830)
36 of Part 2 governing the statewide fingerprint imaging system. A
37 guardian who is also an applicant for or a recipient of benefits
38 under the CalWORKS program, Chapter 2 (commencing with
39 Section 11200) of Part 3, or the Food Stamp program, Chapter 10
40 (commencing with Section 18900) of Part 6 shall comply with the

1 statewide fingerprint imaging system requirements applicable to
2 those programs.

3 (b) Any exemptions exercised pursuant to this section shall be
4 implemented in accordance with Section 11393.

5 (c) Income to the child, including the Kin-GAP payment, shall
6 not be considered income to the kinship guardian for purposes of
7 determining the kinship guardian's eligibility for any other aid
8 program, unless required by federal law as a condition of the receipt
9 of federal financial participation.

10 (d) Each county that formally had court-ordered jurisdiction
11 under Section 300 or Section 601 or 602 over a child receiving
12 benefits under the Kin-GAP Program shall be responsible for
13 paying the child's aid regardless of where the child actually resides.

14 (e) Notwithstanding any other provision of law, when a child
15 receiving benefits under the AFDC-FC foster care program
16 becomes eligible for benefits under the Kin-GAP Program during
17 any month, the child shall continue to receive benefits under the
18 AFDC-FC foster care program, as appropriate, to the end of that
19 calendar month, and Kin-GAP payments shall begin the first day
20 of the following month.

21 (f) All of the following shall apply to any child or nonminor in
22 receipt of Kin-GAP benefits:

23 (1) He or she is eligible to request and receive independent
24 living services pursuant to Section 10609.3.

25 (2) He or she may retain cash savings, not to exceed ten
26 thousand dollars (\$10,000), including interest, pursuant to Section
27 11155.5.

28 (3) He or she shall have earned income disregarded pursuant to
29 Section 11008.15.

30 11391. For purposes of this article, the following definitions
31 shall apply:

32 (a) "Kinship Guardianship Assistance Payments (Kin-GAP)"
33 means the aid provided on behalf of children eligible for federal
34 financial participation under Section 671(a)(28) of Title 42 of the
35 United States Code in kinship care under the terms of this article.

36 (b) "Kinship guardian" means a person who meets both of the
37 following criteria:

38 (1) He or she has been appointed the legal guardian of a
39 dependent child pursuant to Section 366.26 or Section 360.

40 (2) He or she is a relative of the child.

1 (c) “Relative” means an adult who is related to the child by
2 blood, adoption, or affinity within the fifth degree of kinship,
3 including stepparents, stepsiblings, and all relatives whose status
4 is preceded by the words “great,” “great-great,” or “grand” or the
5 spouse of any of those persons even if the marriage was terminated
6 by death or dissolution.

7 (d) “Sibling” means a child related to the identified eligible
8 child by blood, adoption or affinity through a common legal or
9 biological parent.

10 11392. For purposes of eligibility under this article, children
11 who are currently receiving Kin-GAP pursuant to Article 4.5
12 (commencing with Section 11360) and who were determined
13 eligible under Subtitle IV-E (commencing with Section 470 of the
14 federal Social Security Act (42 U.S.C. Sec. 670 et seq.)) as
15 dependent children of the juvenile court placed in foster care with
16 an approved relative and who remain under the court’s jurisdiction
17 pursuant to Section 366.4 shall be deemed to meet the eligibility
18 criteria as described in Section 673(d) of Title 42 of the United
19 States Code. ~~Effective January 1, 2010, and through December~~
20 ~~31, 2010~~ *States Code. Effective January 1, 2012, and through*
21 *December 31, 2012*, the county child welfare department, probation
22 department, or Indian tribe, as appropriate, at the time of each
23 Subtitle IV-E eligible child’s Kin-GAP annual redetermination,
24 shall meet with the relative guardian and child and enter into the
25 negotiated agreement as described in Section 11387.

26 11393. (a) Notwithstanding the Administrative Procedure Act
27 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
28 Division 3 of Title 2 of the Government Code) through June 30,
29 ~~2010~~ *2012*, the department may implement the applicable
30 provisions of the federally funded Kin-GAP Program through
31 all-county letters or similar instructions from the director.

32 (b) The department shall develop both the all-county letter
33 instructions and regulations in consultation with concerned
34 stakeholders, including, but not limited to, the County Welfare
35 Directors Association, the Chief Probation Officers of California,
36 representatives of California Indian tribes, the California Youth
37 Connection, former foster youth, child advocacy organizations,
38 labor organizations, foster caregiver organizations, and researchers.

39 (c) The director shall adopt regulations as otherwise necessary,
40 to implement the applicable provisions of the federally funded

1 Kin-GAP Program no later than July 1, ~~2010~~ 2012. Emergency
2 regulations to implement the applicable provisions of this act may
3 be adopted by the director in accordance with the Administrative
4 Procedure Act. The initial adoption of the emergency regulations
5 and one readoption of the initial regulations shall be deemed to be
6 an emergency and necessary for the immediate preservation of the
7 public peace, health, safety, or general welfare. Initial emergency
8 regulations and the first readoption of those emergency regulations
9 shall be exempt from review by the Office of Administrative Law.
10 The emergency regulations authorized by this section shall be
11 submitted to the Office of Administrative Law for filing with the
12 Secretary of State and shall remain in effect for no more than 180
13 days.

14 ~~SEC. 48:~~

15 *SEC. 55.* Section 11400 of the Welfare and Institutions Code
16 is amended to read:

17 11400. For the purposes of this article, the following definitions
18 shall apply:

19 (a) “Aid to Families with Dependent Children-Foster Care
20 (AFDC-FC)” means the aid provided on behalf of needy children
21 in foster care under the terms of this division.

22 (b) “Case plan” means a written document that, at a minimum,
23 specifies the type of home in which the child shall be placed, the
24 safety of that home, and the appropriateness of that home to meet
25 the child’s needs. It shall also include the agency’s plan for
26 ensuring that the child receive proper care and protection in a safe
27 environment, and shall set forth the appropriate services to be
28 provided to the child, the child’s family, and the foster parents, in
29 order to meet the child’s needs while in foster care, and to reunify
30 the child with the child’s family. In addition, the plan shall specify
31 the services that will be provided or steps that will be taken to
32 facilitate an alternate permanent plan if reunification is not possible.

33 (c) “Certified family home” means a family residence certified
34 by a licensed foster family agency and issued a certificate of
35 approval by that agency as meeting licensing standards, and used
36 only by that foster family agency for placements.

37 (d) “Family home” means the family residency of a licensee in
38 which 24-hour care and supervision are provided for children.

39 (e) “Small family home” means any residential facility, in the
40 licensee’s family residence, which provides 24-hour care for six

1 or fewer foster children who have mental disorders or
2 developmental or physical disabilities and who require special care
3 and supervision as a result of their disabilities.

4 (f) “Foster care” means the 24-hour out-of-home care provided
5 to children whose own families are unable or unwilling to care for
6 them, and who are in need of temporary or long-term substitute
7 parenting.

8 (g) “Foster family agency” means any individual or organization
9 engaged in the recruiting, certifying, and training of, and providing
10 professional support to, foster parents, or in finding homes or other
11 places for placement of children for temporary or permanent care
12 who require that level of care as an alternative to a group home.
13 Private foster family agencies shall be organized and operated on
14 a nonprofit basis.

15 (h) “Group home” means a nondetention privately operated
16 residential home, organized and operated on a nonprofit basis only,
17 of any capacity, or a nondetention licensed residential care home
18 operated by the County of San Mateo with a capacity of up to 25
19 beds, that provides services in a group setting to children in need
20 of care and supervision, as required by paragraph (1) of subdivision
21 (a) of Section 1502 of the Health and Safety Code.

22 (i) “Periodic review” means review of a child’s status by the
23 juvenile court or by an administrative review panel, that shall
24 include a consideration of the safety of the child, a determination
25 of the continuing need for placement in foster care, evaluation of
26 the goals for the placement and the progress toward meeting these
27 goals, and development of a target date for the child’s return home
28 or establishment of alternative permanent placement.

29 (j) “Permanency planning hearing” means a hearing conducted
30 by the juvenile court in which the child’s future status, including
31 whether the child shall be returned home or another permanent
32 plan shall be developed, is determined.

33 (k) “Placement and care” refers to the responsibility for the
34 welfare of a child vested in an agency or organization by virtue of
35 the agency or organization having (1) been delegated care, custody,
36 and control of a child by the juvenile court, (2) taken responsibility,
37 pursuant to a relinquishment or termination of parental rights on
38 a child, (3) taken the responsibility of supervising a child detained
39 by the juvenile court pursuant to Section 319 or 636, or (4) signed
40 a voluntary placement agreement for the child’s placement; or to

1 the responsibility designated to an individual by virtue of his or
2 her being appointed the child’s legal guardian.

3 (l) “Preplacement preventive services” means services that are
4 designed to help children remain with their families by preventing
5 or eliminating the need for removal.

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

12 (n) “Nonrelative extended family member” means an adult
13 caregiver who has an established familial or mentoring relationship
14 with the child, as described in Section 362.7.

15 (o) “Voluntary placement” means an out-of-home placement
16 of a child by (1) the county welfare department, probation
17 department, or Indian tribe that has entered into an agreement
18 pursuant to Section 10553.1, after the parents or guardians have
19 requested the assistance of the county welfare department and have
20 signed a voluntary placement agreement; or (2) the county welfare
21 department licensed public or private adoption agency, or the
22 department acting as an adoption agency, after the parents have
23 requested the assistance of either the county welfare department,
24 the licensed public or private adoption agency, or the department
25 acting as an adoption agency for the purpose of adoption planning,
26 and have signed a voluntary placement agreement.

27 (p) “Voluntary placement agreement” means a written agreement
28 between either the county welfare department, probation
29 department, or Indian tribe that has entered into an agreement
30 pursuant to Section 10553.1, licensed public or private adoption
31 agency, or the department acting as an adoption agency, and the
32 parents or guardians of a child that specifies, at a minimum, the
33 following:

34 (1) The legal status of the child.

35 (2) The rights and obligations of the parents or guardians, the
36 child, and the agency in which the child is placed.

37 (q) “Original placement date” means the most recent date on
38 which the court detained a child and ordered an agency to be
39 responsible for supervising the child or the date on which an agency

1 assumed responsibility for a child due to termination of parental
2 rights, relinquishment, or voluntary placement.

3 (r) “Transitional housing placement facility” means either of
4 the following:

5 (1) A community care facility licensed by the State Department
6 of Social Services pursuant to Section 1559.110 of the Health and
7 Safety Code to provide transitional housing opportunities to persons
8 at least 16 years of age, and not more than 18 years of age unless
9 they satisfy the requirements of Section 11403, who are in
10 out-of-home placement under the supervision of the county
11 department of social services or the county probation department,
12 and who are participating in an independent living program.

13 (2) A facility certified to provide transitional housing services
14 pursuant to subdivision (e) of Section 1559.110 of the Health and
15 Safety Code.

16 (s) “Transitional housing placement program” means a program
17 that provides supervised housing opportunities to eligible youth
18 and nonminor dependents pursuant to Article 4 (commencing with
19 Section 16522) of Chapter 5 of Part 4.

20 (t) “Whole family foster home” means a new or existing family
21 home, approved relative caregiver or nonrelative extended family
22 member’s home, the home of a nonrelated legal guardian whose
23 guardianship was established pursuant to Section 366.26 or 360,
24 certified family home that provides foster care for a minor or
25 nonminor dependent parent and his or her child, and is specifically
26 recruited and trained to assist the minor or nonminor dependent
27 parent in developing the skills necessary to provide a safe, stable,
28 and permanent home for his or her child. The child of the minor
29 or nonminor dependent parent need not be the subject of a petition
30 filed pursuant to Section 300 to qualify for placement in a whole
31 family foster home.

32 (u) “Mutual agreement” means an agreement between a
33 nonminor dependent and the agency responsible for the foster care
34 placement.

35 (v) “Nonminor dependent” means a current or former dependent
36 child or ward of the juvenile court who satisfies all of the following
37 criteria:

38 (1) He or she has attained 18 years of age but is less than 21
39 years of age.

1 (2) He or she is in foster care under the responsibility of the
 2 county welfare department, county probation department, or Indian
 3 tribe that entered into an agreement pursuant to Section 10553.1.

4 (3) He or she is participating in a transitional independent living
 5 case plan pursuant to Section 475(8) of the federal Social Security
 6 Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering
 7 Connections to Success and Increasing Adoptions Act of 2008
 8 (Public Law 110-351).

9 (w) “Supervised independent living setting” means a supervised
 10 setting, as specified in a nonminor dependent’s transitional
 11 independent living case plan, in which the youth is living
 12 independently, pursuant to Section 472(c)(2) of the Social Security
 13 Act (42 U.S.C. Sec. 672(c)(2)).

14 ~~SEC. 49.~~

15 *SEC. 56.* Section 11401 of the Welfare and Institutions Code
 16 is amended to read:

17 11401. Aid in the form of AFDC-FC shall be provided under
 18 this chapter on behalf of any child under ~~the age of 18 years~~ 18
 19 years of age, and to any nonminor dependent as provided in Section
 20 11403, who meets the conditions of subdivision (a), (b), (c), (d),
 21 (e), (f), (g), or (h):

22 (a) The child has been relinquished, for purposes of adoption,
 23 to a licensed adoption agency, or the department, or the parental
 24 rights of either or both of his or her parents have been terminated
 25 after an action under the Family Code has been brought by a
 26 licensed adoption agency or the department, provided that the
 27 licensed adoption agency or the department, if responsible for
 28 placement and care, provides to those children all services as
 29 required by the department to children in foster care.

30 (b) The child has been removed from the physical custody of
 31 his or her parent, relative, or guardian as a result of a voluntary
 32 placement agreement or a judicial determination that continuance
 33 in the home would be contrary to the child’s welfare and that, if
 34 the child was placed in foster care, reasonable efforts were made,
 35 consistent with Chapter 5 (commencing with Section 16500) of
 36 Part 4, to prevent or eliminate the need for removal of the child
 37 from his or her home and to make it possible for the child to return
 38 to his or her home, and any of the following applies:

39 (1) The child has been adjudged a dependent child of the court
 40 on the grounds that he or she is a person described by Section 300.

1 (2) The child has been adjudged a ward of the court on the
2 grounds that he or she is a person described by Sections 601 and
3 602.

4 (3) The child has been detained under a court order, pursuant
5 to Section 319 or 636, that remains in effect.

6 (4) The child's dependency jurisdiction has resumed pursuant
7 to Section 387 or subdivision (a) or (e) of Section 388.

8 (c) The child has been voluntarily placed by his or her parent
9 or guardian pursuant to Section 11401.1.

10 (d) The child is living in the home of a nonrelated legal guardian.

11 (e) The child is a nonminor dependent who is placed pursuant
12 to Section 11403 under the responsibility of the county welfare
13 department, an Indian tribe that entered into an agreement pursuant
14 to Section 10553.1, or the county probation department.

15 (f) The child has been placed in foster care under the federal
16 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
17 not be construed as limiting payments to Indian children, as defined
18 in the federal Indian Child Welfare Act, placed in accordance with
19 that act.

20 (g) To be eligible for federal financial participation, any of the
21 following conditions shall be satisfied:

22 (1) (A) The child meets the conditions of subdivision (b).

23 (B) The child has been deprived of parental support or care for
24 any of the reasons set forth in Section 11250.

25 (C) The child has been removed from the home of a relative as
26 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
27 Regulations, as amended.

28 (D) The requirements of Sections 671 and 672 of Title 42 of
29 the United States Code, as amended, have been met.

30 (2) (A) The child meets the requirements of subdivision (h).

31 (B) The requirements of Sections 671 and 672 of Title 42 of
32 the United States Code, as amended, have been met.

33 (C) This paragraph shall be implemented only if federal financial
34 participation is available for the children described in this
35 paragraph.

36 (3) With respect to a nonminor dependent, in addition to meeting
37 the conditions specified in paragraph (1), the requirements of
38 Section 675(8)(B) of Title 42 of the United States Code have also
39 been met.

40 (h) The child meets all of the following conditions:

1 (1) The child has been adjudged to be a dependent child or ward
2 of the court on the grounds that he or she is a person described in
3 Section 300.

4 (2) The child's parent also has been adjudged to be a dependent
5 child or nonminor dependent of the court on the grounds that he
6 or she is a person described by Section 300 or Section 602 and is
7 receiving benefits under this chapter.

8 (3) The child is placed in the same licensed or approved foster
9 care facility in which his or her parent is placed and the child's
10 parent is receiving reunification services with respect to that child.

11 ~~SEC. 50.~~

12 *SEC. 57.* Section 11401.05 is added to the Welfare and
13 Institutions Code, to read:

14 11401.05. The department shall amend the foster care state
15 plan required under Subtitle IV-E (commencing with Section 470
16 of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.)), to
17 extend benefits under this article, commencing ~~October 1, 2010~~
18 *January 1, 2012*, to an individual who is in foster care under the
19 responsibility of the state, or with respect to whom an adoption
20 assistance agreement or a kinship guardianship assistance
21 agreement is in effect, in accordance with the federal Fostering
22 Connections to Success and Increasing Adoptions Act of 2008
23 (Public Law 110-351).

24 ~~SEC. 51.~~

25 *SEC. 58.* Section 11401.4 of the Welfare and Institutions Code
26 is amended to read:

27 11401.4. A child living with his or her parent who is a minor
28 or a nonminor dependent and a recipient of AFDC-FC benefits
29 shall be deemed a child with respect to whom AFDC-FC payments
30 are made.

31 ~~SEC. 52.~~

32 *SEC. 59.* Section 11401.5 of the Welfare and Institutions Code
33 is amended to read:

34 11401.5. (a) The county shall redetermine AFDC-FC eligibility
35 annually and no less than required under federal law. This shall
36 include an examination of any circumstances of a foster child that
37 are subject to change and could effect the child's potential
38 eligibility, including, but not limited to, deprivation, financial need,
39 authority for placement, eligible facility, and age.

1 (b) At the time of the redetermination, the parent or legal
2 guardian from whom the child was removed shall complete a
3 statement of facts supporting continued eligibility. If the parent or
4 legal guardian is unavailable or uncooperative, the county shall
5 complete the statement of facts on the child's behalf.

6 (c) In the case of a nonminor dependent who is placed pursuant
7 to a mutual agreement, the nonminor dependent shall complete a
8 statement of facts supporting continued eligibility.

9 ~~SEC. 53.~~

10 *SEC. 60.* Section 11402 of the Welfare and Institutions Code,
11 as amended by Section 7 of Chapter 288 of the Statutes of 2007,
12 is amended to read:

13 11402. In order to be eligible for AFDC-FC, a child shall be
14 placed in one of the following:

15 (a) The approved home of a relative, provided the child is
16 otherwise eligible for federal financial participation in the
17 AFDC-FC payment.

18 (b) (1) The licensed family home of a nonrelative.

19 (2) The approved home of a nonrelative extended family
20 member as described in Section 362.7.

21 (c) A licensed group home, as defined in subdivision (h) of
22 Section 11400, provided that the placement worker has documented
23 that the placement is necessary to meet the treatment needs of the
24 child and that the facility offers those treatment services.

25 (d) The home of a nonrelated legal guardian or the home of a
26 former nonrelated legal guardian when the guardianship of a child
27 who is otherwise eligible for AFDC-FC has been dismissed due
28 to the child's attaining 18 years of age.

29 (e) An exclusive-use home.

30 (f) A licensed transitional housing placement facility, as
31 described in Section 1559.110 of the Health and Safety Code, and
32 as defined in Section 11400.

33 (g) An out-of-state group home, provided that the placement
34 worker, in addition to complying with all other statutory
35 requirements for placing a minor in an out-of-state group home,
36 documents that the requirements of Section 7911.1 of the Family
37 Code have been met.

38 (h) A licensed crisis nursery, as described in Section 1516 of
39 the Health and Safety Code, and as defined in subdivision (a) of
40 Section 11400.1.

1 (i) A supervised independent living setting for nonminor
2 dependents, as defined in Section 11400.

3 (j) This section shall remain in effect only until July 1, 2011,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before July 1, 2011, deletes or extends that date.

6 ~~SEC. 54.~~

7 *SEC. 61.* Section 11402 of the Welfare and Institutions Code,
8 as amended by Section 8 of Chapter 288 of the Statutes of 2007,
9 is amended to read:

10 11402. In order to be eligible for AFDC-FC, a child shall be
11 placed in one of the following:

12 (a) The approved home of a relative, provided the child is
13 otherwise eligible for federal financial participation in the
14 AFDC-FC payment.

15 (b) (1) The licensed family home of a nonrelative.

16 (2) The approved home of a nonrelative extended family
17 member as described in Section 362.7.

18 (c) A licensed group home, as defined in subdivision (h) of
19 Section 11400, provided that the placement worker has documented
20 that the placement is necessary to meet the treatment needs of the
21 child and that the facility offers those treatment services.

22 (d) The home of a nonrelated legal guardian or the home of a
23 former nonrelated legal guardian when the guardianship of a child
24 who is otherwise eligible for AFDC-FC has been dismissed due
25 to the child’s attaining 18 years of age.

26 (e) An exclusive-use home.

27 (f) A licensed transitional housing placement facility as
28 described in Section 1559.110 of the Health and Safety Code and
29 as defined in Section 11400.

30 (g) An out-of-state group home, provided that the placement
31 worker, in addition to complying with all other statutory
32 requirements for placing a minor in an out-of-state group home,
33 documents that the requirements of Section 7911.1 of the Family
34 Code have been met.

35 (h) A supervised independent living setting for nonminor
36 dependents, as defined in Section 11400.

37 (i) This section shall become operative on July 1, 2011.

38 ~~SEC. 55.~~ Section 11403 of the Welfare and Institutions Code
39 is amended to read:

1 ~~11403. (a) A child who is in foster care and receiving aid~~
2 ~~pursuant to this chapter and who is attending high school or the~~
3 ~~equivalent level of vocational or technical training on a full-time~~
4 ~~basis, or who is in the process of pursuing a high school~~
5 ~~equivalency certificate, prior to his or her 18th birthday, may~~
6 ~~continue to receive aid following his or her 18th birthday so long~~
7 ~~as the child continues to reside in foster care placement, remains~~
8 ~~otherwise eligible for AFDC-FC payments, and continues to attend~~
9 ~~high school or the equivalent level of vocational or technical~~
10 ~~training on a full-time basis, or continues to pursue a high school~~
11 ~~equivalency certificate, and the child may reasonably be expected~~
12 ~~to complete the educational or training program or to receive a~~
13 ~~high school equivalency certificate, before his or her 19th birthday.~~
14 ~~Aid shall be provided to an individual pursuant to this section~~
15 ~~provided both the individual and the agency responsible for the~~
16 ~~foster care placement have signed a mutual agreement, if the~~
17 ~~individual is capable of making an informed agreement, which~~
18 ~~documents the continued need for out-of-home placement.~~

19 ~~(b) This section shall remain in effect only until October 1,~~
20 ~~2010, and as of that date is repealed, unless a later enacted statute,~~
21 ~~that is enacted before October 1, 2010, deletes or extends that date.~~

22 ~~SEC. 62. Section 11403 of the Welfare and Institutions Code~~
23 ~~is repealed.~~

24 ~~11403. A child who is in foster care and receiving aid pursuant~~
25 ~~to this chapter and who is attending high school or the equivalent~~
26 ~~level of vocational or technical training on a full-time basis, or~~
27 ~~who is in the process of pursuing a high school equivalency~~
28 ~~certificate, prior to his or her 18th birthday, may continue to receive~~
29 ~~aid following his or her 18th birthday so long as the child continues~~
30 ~~to reside in foster care placement, remains otherwise eligible for~~
31 ~~AFDC-FC payments, and continues to attend high school or the~~
32 ~~equivalent level of vocational or technical training on a full-time~~
33 ~~basis, or continues to pursue a high school equivalency certificate,~~
34 ~~and the child may reasonably be expected to complete the~~
35 ~~educational or training program or to receive a high school~~
36 ~~equivalency certificate, before his or her 19th birthday. Aid shall~~
37 ~~be provided to an individual pursuant to this section provided both~~
38 ~~the individual and the agency responsible for the foster care~~
39 ~~placement have signed a mutual agreement, if the individual is~~

1 ~~capable of making an informed agreement, which documents the~~
2 ~~continued need for out-of-home placement.~~

3 ~~SEC. 56.~~

4 *SEC. 63.* Section 11403 is added to the Welfare and Institutions
5 Code, to read:

6 11403. (a) It is the intent of the Legislature to exercise the
7 option afforded states under Section 475(8) (42 U.S.C. Sec.
8 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
9 Social Security Act, as contained in the Fostering Connections to
10 Success and Increasing Adoptions Act of 2008 (Public Law
11 110-351), to receive federal financial participation for current or
12 former dependent children or wards of the juvenile court who meet
13 the conditions of subdivision (b). ~~These~~ *Effective January 1, 2012,*
14 *these* nonminor dependents shall be eligible to receive support *up*
15 *to 19 years of age, effective January 1, 2013, up to 20 years of*
16 *age, and effective January 1, 2014,* up to 21 years of age, consistent
17 with their transitional independent living case plan.

18 (b) A nonminor dependent receiving aid pursuant to this chapter
19 shall continue to receive aid so long as the nonminor is otherwise
20 eligible for AFDC-FC payments pursuant to Section 11401 or
21 CalWORKs payments pursuant to Section 11253 or aid pursuant
22 to Kin-GAP under Article 4.5 (commencing with Section 11360)
23 or Article 4.7 (commencing with Section 11385) or adoption
24 assistance payments as specified in Chapter 2.1 (commencing with
25 Section 16115) of Part 4. ~~A~~ *Effective January 1, 2012,* a nonminor
26 former dependent child of the juvenile court who is receiving
27 AFDC-FC benefits pursuant to Section 11405 shall be eligible to
28 continue to receive aid *up to 19 years of age, effective January 1,*
29 *2013, up to 20 years of age, and effective January 1, 2014,* up to
30 21 years of age, as long as the nonminor is otherwise eligible for
31 AFDC-FC benefits under this subdivision. This subdivision shall
32 apply when one or more of the following conditions exist:

33 (1) The nonminor is completing secondary education or a
34 program leading to an equivalent credential.

35 (2) The nonminor is enrolled in an institution which provides
36 postsecondary or vocational education.

37 (3) The nonminor is participating in a program or activity
38 designed to promote, or remove barriers to employment.

39 (4) The nonminor is employed for at least 80 hours per month.

1 (5) The nonminor is incapable of doing any of the activities
2 described in subparagraphs (1) to (4), inclusive, due to a medical
3 condition, and that incapability is supported by regularly updated
4 information in the case plan of the nonminor.

5 (c) The county child welfare or probation department or Indian
6 tribe that has entered into an agreement pursuant to Section
7 10553.1, shall actively assist a nonminor dependent who is in foster
8 care on his or her 18th birthday to meet one or more of the
9 conditions described in subparagraphs (1) to (5), inclusive, of
10 subdivision (b) and shall certify the nonminor's applicable
11 condition to the eligibility worker. The nonminor dependent shall
12 be presumed to continuously meet one or more of the conditions
13 described in subparagraphs (1) to (5), inclusive, of subdivision (b)
14 unless and until the social worker or probation officer documents
15 to the court that the nonminor dependent does not meet at least
16 one of the conditions. In no case shall aid under this section be
17 terminated unless the court terminates dependency jurisdiction
18 over the nonminor pursuant to Section 391. The nonminor
19 dependent shall be afforded all due process requirements in
20 accordance with state and federal law prior to an involuntary
21 termination of aid. Any notices of action regarding eligibility shall
22 be sent to the nonminor dependent and his or her counsel, in
23 addition to any other payee.

24 (d) A nonminor dependent may receive all or a portion of the
25 payment directly provided that both the youth and the agency
26 responsible for the foster care placement have signed a mutual
27 agreement, if the youth is capable of making an informed
28 agreement, which documents the continued need for out-of-home
29 placement.

30 (e) Eligibility for aid under this section shall not terminate until
31 the nonminor attains 21 years of age but aid may be suspended
32 and resumed at request of the nonminor pursuant to subdivision
33 (e) of Section 388 or after a court terminates dependency
34 jurisdiction pursuant to Section 391. The county welfare
35 department, tribe, or county probation department shall provide a
36 nonminor dependent who wishes to continue receiving aid with
37 the assistance necessary to meet and maintain eligibility.

38 (f) (1) The county having jurisdiction of the nonminor
39 dependent shall remain the county of payment under this section
40 regardless of the youth's physical residence. Counties may develop

1 courtesy supervision agreements to provide case management and
2 independent living services by the county of residence pursuant
3 to the youth's transitional independent living case plan. Placements
4 made out of state are subject to the requirements of the Interstate
5 Compact on Juveniles pursuant to Chapter 4 (commencing with
6 Section 1300) of Part 1 of Division 2.

7 (2) The county welfare department, tribe, or county probation
8 department shall notify all foster youth who attain 16 years of age
9 and are under the jurisdiction of that county or tribe, including
10 those receiving Kin-GAP, and AAP, of the existence of the aid
11 prescribed by this section.

12 (3) Aid under this section shall be paid on the first of the month
13 for that month. Notwithstanding any other provision of law, when
14 a child attains 18 years of age those payments shall continue to
15 the end of that calendar month and the AFDC-FC, Kin-GAP, or
16 AAP payments under this section shall begin the first day of the
17 following month.

18 (4) The department shall seek any waiver to amend its Title
19 IV-E State Plan with the Secretary of the United States Department
20 of Health and Human Services necessary to implement this section.

21 (g) The department, on or before July 1, 2011, shall develop
22 regulations to implement this section in consultation with
23 concerned stakeholders, including, but not limited to,
24 representatives of the Legislature, the County Welfare Directors
25 Association, the Chief Probation Officers of California, the Judicial
26 Council, representatives of Indian tribes, the California Youth
27 Connection, former foster youth, child advocacy organizations,
28 labor organizations, foster caregiver organizations, and researchers.
29 The department, in its consultation, shall take into consideration
30 the impact to the Automated Child Welfare Services Case
31 Management Services (CWS-CMS) and required modifications
32 needed to accommodate eligibility determination under this section,
33 benefit issuance, case management across counties, and recognition
34 of the legal status of nonminor dependents as adults, as well as
35 changes to data tracking and reporting requirements as required
36 by the Child Welfare System Improvement and Accountability
37 Act as specified in Section 10601.2, and federal outcome measures
38 as required by the John H. Chafee Foster Care Independence
39 Program (42 U.S.C. Sec. 677(f)). In addition, the department, in
40 its consultation, shall define the supervised independent living

1 setting which shall include, but not be limited to, apartment living,
2 room and board arrangements, college or university dormitories,
3 and shared roommate settings, and define how those settings meet
4 health and safety standards suitable for nonminors.

5 (h) Notwithstanding the Administrative Procedure Act, Chapter
6 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
7 Title 2 of the Government Code, the department shall prepare for
8 implementation of the applicable provisions of this section by
9 publishing, after consultation with the stakeholders listed in
10 subdivision (f), all-county letters or similar instructions from the
11 ~~director by July 1, 2010, to apply from October 1, 2010, to June~~
12 ~~30, 2011~~ *director by July 1, 2012, to apply from October 1, 2012,*
13 *to June 30, 2013, inclusive.* Emergency regulations to implement
14 the applicable provisions of this act may be adopted by the director
15 in accordance with the Administrative Procedure Act. The initial
16 adoption of the emergency regulations and one readoption of the
17 emergency regulations shall be deemed to be an emergency and
18 necessary for the immediate preservation of the public peace,
19 health, safety, or general welfare. Initial emergency regulations
20 and the first readoption of those emergency regulations shall be
21 exempt from review by the Office of Administrative Law. The
22 emergency regulations authorized by this section shall be submitted
23 to the Office of Administrative Law for filing with the Secretary
24 of State and shall remain in effect for no more than 180 days.

25 (i) This section shall become operative on October 1, ~~2010~~ 2012.
26 ~~SEC. 56.5.~~

27 *SEC. 64.* Section 11403.01 is added to the Welfare and
28 Institutions Code, to read:

29 11403.01. On and after ~~October 1, 2010~~ *January 1, 2012*, a
30 nonminor who is receiving Kin-GAP benefits under Article 4.5
31 (commencing with Section 11360) or Article 4.7 (commencing
32 with Section 11385) and whose Kin-GAP payments began prior
33 to the child's 16th birthday, or a nonminor adjudicated under
34 Section 602 who remains in a foster care placement, and is
35 receiving aid pursuant to this chapter and who is attending high
36 school or the equivalent level of vocational or technical training
37 on a full-time basis, or who is in the process of pursuing a high
38 school equivalency certificate, prior to his or her 18th birthday,
39 may continue to receive aid following his or her 18th birthday so
40 long as the child continues to reside in foster care placement,

1 remains otherwise eligible for AFDC-FC payments, and continues
2 to attend high school or the equivalent level of vocational or
3 technical training on a full-time basis, or continues to pursue a
4 high school equivalency certificate, and the child may reasonably
5 be expected to complete the educational or training program or to
6 receive a high school equivalency certificate, before his or her
7 19th birthday. Aid shall be provided to an individual pursuant to
8 this section provided that both the individual and the agency
9 responsible for the foster care placement have signed a mutual
10 agreement, if the individual is capable of making an informed
11 agreement, documenting the continued need for out-of-home
12 placement.

13 ~~SEC. 57.~~

14 *SEC. 65.* Section 11403.2 of the Welfare and Institutions Code
15 is amended to read:

16 11403.2. (a) The following persons shall be eligible for
17 transitional housing placement program services provided pursuant
18 to Article 4 (commencing with Section 16522) of Chapter 5 of
19 Part 4:

20 (1) Any minor at least 16 years of age and not more than 18
21 years of age, and, on or after ~~October 1, 2010~~ *January 1, 2012*,
22 any nonminor dependent who is less than 21 years of age, who is
23 eligible for AFDC-FC benefits as provided in Section 11403, and
24 who also meets the requirements in Section 16522.2.

25 (2) Any person less than 24 years of age who has emancipated
26 from a county that has elected to participate in a transitional
27 housing placement program for youths who are at least 18 years
28 of age and under 24 years of age, as described in subdivision (r)
29 of Section 11400, provided he or she has not received services
30 under this paragraph for more than a total of 24 months, whether
31 or not consecutive. If the person participating in a transitional
32 housing placement program is not receiving aid under Section
33 11403.1, he or she, as a condition of participation, shall enter into,
34 and execute the provisions of, a transitional independent living
35 plan that shall be mutually agreed upon, and annually reviewed,
36 by the emancipated foster youth and the county welfare or
37 probation department or independent living program coordinator.
38 The youth participating under this paragraph shall inform the
39 county of any changes to conditions specified in the agreed-upon

1 plan that affect eligibility, including changes in address, living
2 circumstances, and the educational or training program.

3 (b) Payment on behalf of an eligible person receiving transitional
4 housing services shall be made to the transitional housing
5 placement program pursuant to the conditions and limitations set
6 forth in Section 11403.3.

7 (c) On and after ~~October 1, 2010~~ *January 1, 2012*, with respect
8 to nonminor dependents under 21 years of age, the licensing
9 standards for these legal adults placed in the transitional housing
10 placement program shall be in accordance with Section 1502.7 of
11 the Health and Safety Code.

12 ~~SEC. 57.5.~~

13 *SEC. 66.* Section 11405 of the Welfare and Institutions Code
14 is amended to read:

15 11405. (a) AFDC-FC benefits shall be paid to an otherwise
16 eligible child living with a nonrelated legal guardian, provided
17 that the legal guardian cooperates with the county welfare
18 department in all of the following:

19 (1) Developing a written assessment of the child's needs.

20 (2) Updating the assessment no less frequently than once every
21 six months.

22 (3) Carrying out the case plan developed by the county.

23 (b) When AFDC-FC is applied for on behalf of a child living
24 with a nonrelated legal guardian the county welfare department
25 shall do all of the following:

26 (1) Develop a written assessment of the child's needs.

27 (2) Update those assessments no less frequently than once every
28 six months.

29 (3) Develop a case plan that specifies how the problems
30 identified in the assessment are to be addressed.

31 (4) Make visits to the child as often as appropriate, but in no
32 event less often than once every six months.

33 (c) Where the child is a parent and has a child living with him
34 or her in the same eligible facility, the assessment required by
35 paragraph (1) of subdivision (a) shall include the needs of his or
36 her child.

37 (d) Nonrelated legal guardians of eligible children who are in
38 receipt of AFDC-FC payments described in this section shall be
39 exempt from the requirement to register with the Statewide

1 Registry of Private Professional Guardians pursuant to Sections
2 2850 and 2851 of the Probate Code.

3 (e) On and after ~~October 1, 2010~~ *January 1, 2012*, a nonminor
4 youth whose nonrelated guardianship was ordered in juvenile court
5 pursuant to Section 360 or 366.26, and whose dependency was
6 dismissed, shall remain eligible for AFDC-FC benefits *until the*
7 *youth attains 19 years of age, effective January 1, 2013, until the*
8 *youth attains 20 years of age, and effective January 1, 2014*, until
9 the youth attains 21 years of age, provided that the youth enters
10 into a mutual agreement with the agency responsible for his or her
11 guardianship, and the youth is meeting the conditions of eligibility,
12 as described in Section 11403.

13 ~~SEC. 58.~~

14 *SEC. 67.* Section 11450 of the Welfare and Institutions Code
15 is amended to read:

16 11450. (a) (1) Aid shall be paid for each needy family, which
17 shall include all eligible brothers and sisters of each eligible
18 applicant or recipient child and the parents of the children, but
19 shall not include unborn children, or recipients of aid under Chapter
20 3 (commencing with Section 12000), qualified for aid under this
21 chapter. In determining the amount of aid paid, and notwithstanding
22 the minimum basic standards of adequate care specified in Section
23 11452, the family’s income, exclusive of any amounts considered
24 exempt as income or paid pursuant to subdivision (e) or Section
25 11453.1, averaged for the prospective quarter pursuant to Sections
26 11265.2 and 11265.3, and then calculated pursuant to Section
27 11451.5, shall be deducted from the sum specified in the following
28 table, as adjusted for cost-of-living increases pursuant to Section
29 11453 and paragraph (2). In no case shall the amount of aid paid
30 for each month exceed the sum specified in the following table,
31 as adjusted for cost-of-living increases pursuant to Section 11453
32 and paragraph (2), plus any special needs, as specified in
33 subdivisions (c), (e), and (f):

34		
35	Number of	
36	eligible needy	
37	persons in	Maximum
38	the same home	aid
39	1.....	\$ 326
40	2.....	535

1	3.....	663
2	4.....	788
3	5.....	899
4	6.....	1,010
5	7.....	1,109
6	8.....	1,209
7	9.....	1,306
8	10 or more.....	1,403

9
10 If, when, and during those times that the United States
11 government increases or decreases its contributions in assistance
12 of needy children in this state above or below the amount paid on
13 July 1, 1972, the amounts specified in the above table shall be
14 increased or decreased by an amount equal to that increase or
15 decrease by the United States government, provided that no
16 increase or decrease shall be subject to subsequent adjustment
17 pursuant to Section 11453.

18 (2) The sums specified in paragraph (1) shall not be adjusted
19 for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94,
20 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through
21 October 31, 1998, nor shall that amount be included in the base
22 for calculating any cost-of-living increases for any fiscal year
23 thereafter. Elimination of the cost-of-living adjustment pursuant
24 to this paragraph shall satisfy the requirements of Section 11453.05,
25 and no further reduction shall be made pursuant to that section.

26 (b) When the family does not include a needy child qualified
27 for aid under this chapter, aid shall be paid to a pregnant mother
28 for the month in which the birth is anticipated and for the
29 three-month period immediately prior to the month in which the
30 birth is anticipated in the amount that would otherwise be paid to
31 one person, as specified in subdivision (a), if the mother, and child,
32 if born, would have qualified for aid under this chapter. Verification
33 of pregnancy shall be required as a condition of eligibility for aid
34 under this subdivision. Aid shall also be paid to a pregnant woman
35 with no other children in the amount which would otherwise be
36 paid to one person under subdivision (a) at any time after
37 verification of pregnancy if the pregnant woman is also eligible
38 for the Cal-Learn Program described in Article 3.5 (commencing
39 with Section 11331) and if the mother, and child, if born, would
40 have qualified for aid under this chapter.

1 (c) The amount of forty-seven dollars (\$47) per month shall be
2 paid to pregnant mothers qualified for aid under subdivision (a)
3 or (b) to meet special needs resulting from pregnancy if the mother,
4 and child, if born, would have qualified for aid under this chapter.
5 County welfare departments shall refer all recipients of aid under
6 this subdivision to a local provider of the Women, Infants and
7 Children program. If that payment to pregnant mothers qualified
8 for aid under subdivision (a) is considered income under federal
9 law in the first five months of pregnancy, payments under this
10 subdivision shall not apply to persons eligible under subdivision
11 (a), except for the month in which birth is anticipated and for the
12 three-month period immediately prior to the month in which
13 delivery is anticipated, if the mother, and the child, if born, would
14 have qualified for aid under this chapter.

15 (d) For children receiving AFDC-FC under this chapter, there
16 shall be paid, exclusive of any amount considered exempt as
17 income, an amount of aid each month which, when added to the
18 child's income, is equal to the rate specified in Section 11460,
19 11461, 11462, 11462.1, or 11463. In addition, the child shall be
20 eligible for special needs, as specified in departmental regulations.

21 (e) In addition to the amounts payable under subdivision (a)
22 and Section 11453.1, a family shall be entitled to receive an
23 allowance for recurring special needs not common to a majority
24 of recipients. These recurring special needs shall include, but not
25 be limited to, special diets upon the recommendation of a physician
26 for circumstances other than pregnancy, and unusual costs of
27 transportation, laundry, housekeeping services, telephone, and
28 utilities. The recurring special needs allowance for each family
29 per month shall not exceed that amount resulting from multiplying
30 the sum of ten dollars (\$10) by the number of recipients in the
31 family who are eligible for assistance.

32 (f) After a family has used all available liquid resources, both
33 exempt and nonexempt, in excess of one hundred dollars (\$100),
34 with the exception of funds deposited in a restricted account
35 described in subdivision (a) of Section 11155.2, the family shall
36 also be entitled to receive an allowance for nonrecurring special
37 needs.

38 (1) An allowance for nonrecurring special needs shall be granted
39 for replacement of clothing and household equipment and for
40 emergency housing needs other than those needs addressed by

1 paragraph (2). These needs shall be caused by sudden and unusual
2 circumstances beyond the control of the needy family. The
3 department shall establish the allowance for each of the
4 nonrecurring special need items. The sum of all nonrecurring
5 special needs provided by this subdivision shall not exceed six
6 hundred dollars (\$600) per event.

7 (2) Homeless assistance is available to a homeless family
8 seeking shelter when the family is eligible for aid under this
9 chapter. Homeless assistance for temporary shelter is also available
10 to homeless families which are apparently eligible for aid under
11 this chapter. Apparent eligibility exists when evidence presented
12 by the applicant, or which is otherwise available to the county
13 welfare department, and the information provided on the
14 application documents indicate that there would be eligibility for
15 aid under this chapter if the evidence and information were verified.
16 However, an alien applicant who does not provide verification of
17 his or her eligible alien status, or a woman with no eligible children
18 who does not provide medical verification of pregnancy, is not
19 apparently eligible for purposes of this section.

20 A family is considered homeless, for the purpose of this section,
21 when the family lacks a fixed and regular nighttime residence; or
22 the family has a primary nighttime residence that is a supervised
23 publicly or privately operated shelter designed to provide temporary
24 living accommodations; or the family is residing in a public or
25 private place not designed for, or ordinarily used as, a regular
26 sleeping accommodation for human beings. A family is also
27 considered homeless for the purpose of this section if the family
28 has received a notice to pay rent or quit. The family shall
29 demonstrate that the eviction is the result of a verified financial
30 hardship as a result of extraordinary circumstances beyond their
31 control, and not other lease or rental violations, and that the family
32 is experiencing a financial crisis that could result in homelessness
33 if preventative assistance is not provided.

34 (A) (i) A nonrecurring special need of sixty-five dollars (\$65)
35 a day shall be available to families of up to four members for the
36 costs of temporary shelter, subject to the requirements of this
37 paragraph. The fifth and additional members of the family shall
38 each receive fifteen dollars (\$15) per day, up to a daily maximum
39 of one hundred twenty-five dollars (\$125). County welfare
40 departments may increase the daily amount available for temporary

1 shelter as necessary to secure the additional bedspace needed by
2 the family.

3 (ii) This special need shall be granted or denied immediately
4 upon the family's application for homeless assistance, and benefits
5 shall be available for up to three working days. The county welfare
6 department shall verify the family's homelessness within the first
7 three working days and if the family meets the criteria of
8 questionable homelessness established by the department, the
9 county welfare department shall refer the family to its early fraud
10 prevention and detection unit, if the county has such a unit, for
11 assistance in the verification of homelessness within this period.

12 (iii) After homelessness has been verified, the three-day limit
13 shall be extended for a period of time which, when added to the
14 initial benefits provided, does not exceed a total of 16 calendar
15 days. This extension of benefits shall be done in increments of one
16 week and shall be based upon searching for permanent housing
17 which shall be documented on a housing search form; good cause;
18 or other circumstances defined by the department. Documentation
19 of a housing search shall be required for the initial extension of
20 benefits beyond the three-day limit and on a weekly basis thereafter
21 as long as the family is receiving temporary shelter benefits. Good
22 cause shall include, but is not limited to, situations in which the
23 county welfare department has determined that the family, to the
24 extent it is capable, has made a good faith but unsuccessful effort
25 to secure permanent housing while receiving temporary shelter
26 benefits.

27 (B) A nonrecurring special need for permanent housing
28 assistance is available to pay for last month's rent and security
29 deposits when these payments are reasonable conditions of securing
30 a residence, or to pay for up to two months of rent arrearages, when
31 these payments are a reasonable condition of preventing eviction.

32 The last month's rent or monthly arrearage portion of the
33 payment (i) shall not exceed 80 percent of the family's total
34 monthly household income without the value of food stamps or
35 special needs for a family of that size and (ii) shall only be made
36 to families that have found permanent housing costing no more
37 than 80 percent of the family's total monthly household income
38 without the value of food stamps or special needs for a family of
39 that size.

1 However, if the county welfare department determines that a
2 family intends to reside with individuals who will be sharing
3 housing costs, the county welfare department shall, in appropriate
4 circumstances, set aside the condition specified in clause (ii) of
5 the preceding paragraph.

6 (C) The nonrecurring special need for permanent housing
7 assistance is also available to cover the standard costs of deposits
8 for utilities which are necessary for the health and safety of the
9 family.

10 (D) A payment for or denial of permanent housing assistance
11 shall be issued no later than one working day from the time that a
12 family presents evidence of the availability of permanent housing.
13 If an applicant family provides evidence of the availability of
14 permanent housing before the county welfare department has
15 established eligibility for aid under this chapter, the county welfare
16 department shall complete the eligibility determination so that the
17 denial of or payment for permanent housing assistance is issued
18 within one working day from the submission of evidence of the
19 availability of permanent housing, unless the family has failed to
20 provide all of the verification necessary to establish eligibility for
21 aid under this chapter.

22 (E) (i) Except as provided in clauses (ii) and (iii), eligibility
23 for the temporary shelter assistance and the permanent housing
24 assistance pursuant to this paragraph shall be limited to one period
25 of up to 16 consecutive calendar days of temporary assistance and
26 one payment of permanent assistance. Any family that includes a
27 parent or nonparent caretaker relative living in the home who has
28 previously received temporary or permanent homeless assistance
29 at any time on behalf of an eligible child shall not be eligible for
30 further homeless assistance. Any person who applies for homeless
31 assistance benefits shall be informed that the temporary shelter
32 benefit of up to 16 consecutive days is available only once in a
33 lifetime, with certain exceptions, and that a break in the consecutive
34 use of the benefit constitutes permanent exhaustion of the
35 temporary benefit.

36 (ii) A family that becomes homeless as a direct and primary
37 result of a state or federally declared natural disaster shall be
38 eligible for temporary and permanent homeless assistance.

39 (iii) A family shall be eligible for temporary and permanent
40 homeless assistance when homelessness is a direct result of

1 domestic violence by a spouse, partner, or roommate; physical or
2 mental illness that is medically verified that shall not include a
3 diagnosis of alcoholism, drug addiction, or psychological stress;
4 or, the uninhabitability of the former residence caused by sudden
5 and unusual circumstances beyond the control of the family
6 including natural catastrophe, fire, or condemnation. These
7 circumstances shall be verified by a third-party governmental or
8 private health and human services agency, except that domestic
9 violence may also be verified by a sworn statement by the victim,
10 as provided under Section 11495.25. Homeless assistance payments
11 based on these specific circumstances may not be received more
12 often than once in any 12-month period. In addition, if the domestic
13 violence is verified by a sworn statement by the victim, the
14 homeless assistance payments shall be limited to two periods of
15 not more than 16 consecutive calendar days of temporary assistance
16 and two payments of permanent assistance. A county may require
17 that a recipient of homeless assistance benefits who qualifies under
18 this paragraph for a second time in a 24-month period participate
19 in a homelessness avoidance case plan as a condition of eligibility
20 for homeless assistance benefits. The county welfare department
21 shall immediately inform recipients who verify domestic violence
22 by a sworn statement pursuant to clause (iii) of the availability of
23 domestic violence counseling and services, and refer those
24 recipients to services upon request.

25 (iv) If a county requires a recipient who verifies domestic
26 violence by a sworn statement to participate in a homelessness
27 avoidance case plan pursuant to clause (iii), the plan shall include
28 the provision of domestic violence services, if appropriate.

29 (v) If a recipient seeking homeless assistance based on domestic
30 violence pursuant to clause (iii) has previously received homeless
31 avoidance services based on domestic violence, the county shall
32 review whether services were offered to the recipient and consider
33 what additional services would assist the recipient in leaving the
34 domestic violence situation.

35 (vi) The county welfare department shall report to the
36 department through a statewide homeless assistance payment
37 indicator system, necessary data, as requested by the department,
38 regarding all recipients of aid under this paragraph.

39 (F) The county welfare departments, and all other entities
40 participating in the costs of the AFDC program, have the right in

1 their share to any refunds resulting from payment of the permanent
2 housing. However, if an emergency requires the family to move
3 within the 12-month period specified in subparagraph (E), the
4 family shall be allowed to use any refunds received from its
5 deposits to meet the costs of moving to another residence.

6 (G) Payments to providers for temporary shelter and permanent
7 housing and utilities shall be made on behalf of families requesting
8 these payments.

9 (H) The daily amount for the temporary shelter special need for
10 homeless assistance may be increased if authorized by the current
11 year's Budget Act by specifying a different daily allowance and
12 appropriating the funds therefor.

13 (I) No payment shall be made pursuant to this paragraph unless
14 the provider of housing is a commercial establishment, shelter, or
15 person in the business of renting properties who has a history of
16 renting properties.

17 (g) The department shall establish rules and regulations ensuring
18 the uniform application statewide of this subdivision.

19 (h) The department shall notify all applicants and recipients of
20 aid through the standardized application form that these benefits
21 are available and shall provide an opportunity for recipients to
22 apply for the funds quickly and efficiently.

23 (i) Except for the purposes of Section 15200, the amounts
24 payable to recipients pursuant to Section 11453.1 shall not
25 constitute part of the payment schedule set forth in subdivision
26 (a).

27 The amounts payable to recipients pursuant to Section 11453.1
28 shall not constitute income to recipients of aid under this section.

29 (j) For children receiving Kin-GAP pursuant to Article 4.5
30 (commencing with Section 11360) or Article 4.7 (commencing
31 with Section 11385) there shall be paid, exclusive of any amount
32 considered exempt as income, an amount of aid each month, which,
33 when added to the child's income, is equal to the rate specified in
34 Sections 11364 and 11387.

35 ~~SEC. 59.~~

36 *SEC. 68.* Section 11450.16 of the Welfare and Institutions
37 Code is amended to read:

38 11450.16. (a) For purposes of determining eligibility under
39 this chapter, and for computing the amount of aid payment under
40 Section 11450, families shall be grouped into assistance units.

1 (b) Every assistance unit shall include at least one of the
2 following persons:

3 (1) One of each of the following:

4 (A) An eligible child.

5 (B) The caretaker relative of an otherwise eligible child who is
6 not receiving aid under Section 11250 because that child is
7 receiving benefits under Title XVI of the Social Security Act
8 (Subchapter 16 (commencing with Section 1381); of Chapter 7 of
9 Title 42 of the United States Code), or Kin-GAP payments under
10 Section 11364 or 11387, or foster care payments under Section
11 11461.

12 (2) A pregnant woman who is eligible for payments under
13 subdivision (c) of Section 11450.

14 (c) Every assistance unit shall, in addition to the requirements
15 of subdivision (b), include the eligible parents of the eligible child
16 and the eligible siblings, including half-siblings, of the eligible
17 child when those persons reside in the same home as the eligible
18 child. This subdivision shall not apply to any convicted offender
19 who is permitted to reside at the home of the eligible child as part
20 of a court-imposed sentence and who is considered an absent parent
21 under Section 11250.

22 (d) An assistance unit may, at the option of the family
23 comprising the assistance unit, also include the nonparent caretaker
24 relative of the eligible child, the spouse of the parent of the eligible
25 child, otherwise eligible nonsibling children in the care of the
26 caretaker relative of the eligible child, and the alternatively
27 sentenced offender parent exempted under subdivision (c).

28 (e) If two or more assistance units reside in the same home, they
29 shall be combined into one assistance unit when any of the
30 following circumstances ~~occur~~ occurs:

31 (1) There is a common caretaker relative for the eligible
32 children.

33 (2) One caretaker relative marries another caretaker relative.

34 (3) Two caretaker relatives are the parents of an eligible child.

35 (f) For purposes of this section, "caretaker relative" means the
36 parent or other relative, as defined by regulations adopted by the
37 department, who exercises responsibility and control of a child.

38 ~~SEC. 60.~~

39 *SEC. 69.* Section 11454.5 of the Welfare and Institutions Code
40 is amended to read:

1 11454.5. (a) Any month in which the following conditions
2 exist shall not be counted as a month of receipt of aid for the
3 purposes of subdivision (a) of Section 11454:

4 (1) The recipient is exempt from participation under Article 3.2
5 (commencing with Section 11320) due to disability, or advanced
6 age in accordance with paragraph (3) of subdivision (b) of Section
7 11320.3, or due to caretaking responsibilities that impair the
8 recipient's ability to be regularly employed, in accordance with
9 paragraph (4) or (5) of subdivision (b) of Section 11320.3.

10 (2) The recipient is eligible for, participating in, or exempt from,
11 the Cal-Learn Program provided for pursuant to Article 3.5
12 (commencing with Section 11331), is participating in another teen
13 parent program approved by the department, or, on or after ~~October~~
14 ~~1, 2010~~, *January 1, 2011*, is a nonminor dependent under the
15 supervision of the county child welfare or probation department
16 who is placed in an approved relative's home and is eligible for
17 aid under this section because he or she satisfies the conditions
18 described in Section 11403.

19 (3) The cost of the cash aid provided to the recipient for the
20 month is fully reimbursed by child support, whether collected in
21 that month or any subsequent month.

22 (4) The family is a former recipient of cash aid under this chapter
23 and currently receives only child care, case management, or
24 supportive services pursuant to Section 11323.2 or Article 15.5
25 (commencing with Section 8350) of Chapter 2 of Part 6 of the
26 Education Code.

27 (5) To the extent provided by federal law, the recipient lived in
28 Indian country, as defined by federal law, or an Alaskan native
29 village in which at least 50 percent of the adults living in the Indian
30 country or in the village are not employed.

31 (b) In cases where a lump-sum diversion payment is provided
32 in lieu of cash aid under Section 11266.5, the month in which the
33 payment is made or the months calculated pursuant to subdivision
34 (f) of Section 11266.5 shall count against the limits specified in
35 Section 11454.

36 ~~SEC. 61.~~

37 *SEC. 70.* Section 11461 of the Welfare and Institutions Code
38 is amended to read:

39 11461. (a) For children or nonminor dependents placed in a
40 licensed or approved family home with a capacity of six or less,

1 or in an approved home of a relative or nonrelated legal guardian,
 2 or the approved home of a nonrelative extended family member
 3 as described in Section 362.7, or a supervised independent living
 4 setting, as defined in subdivision (w) of Section 11400, the per
 5 child per month rates in the following schedule shall be in effect
 6 for the period July 1, 1989, through December 31, 1989:

7	8 Age	Basic rate
9	0-4.....	\$ 294
10	5-8.....	319
11	9-11.....	340
12	12-14.....	378
13	15-20.....	412

14
 15 (b) (1) Any county that, as of October 1, 1989, has in effect a
 16 basic rate that is at the levels set forth in the schedule in subdivision
 17 (a), shall continue to receive state participation, as specified in
 18 subdivision (c) of Section 15200, at these levels.

19 (2) Any county that, as of October 1, 1989, has in effect a basic
 20 rate that exceeds a level set forth in the schedule in subdivision
 21 (a), shall continue to receive the same level of state participation
 22 as it received on October 1, 1989.

23 (c) The amounts in the schedule of basic rates in subdivision
 24 (a) shall be adjusted as follows:

25 (1) Effective January 1, 1990, the amounts in the schedule of
 26 basic rates in subdivision (a) shall be increased by 12 percent.

27 (2) Effective May 1, 1990, any county that did not increase the
 28 basic rate by 12 percent on January 1, 1990, shall do both of the
 29 following:

30 (A) Increase the basic rate in effect December 31, 1989, for
 31 which state participation is received by 12 percent.

32 (B) Increase the basic rate, as adjusted pursuant to subparagraph
 33 (A), by an additional 5 percent.

34 (3) (A) Except as provided in subparagraph (B), effective July
 35 1, 1990, for the 1990-91 fiscal year, the amounts in the schedule
 36 of basic rates in subdivision (a) shall be increased by an additional
 37 5 percent.

38 (B) The rate increase required by subparagraph (A) shall not be
 39 applied to rates increased May 1, 1990, pursuant to paragraph (2).

1 (4) Effective July 1, 1998, the amounts in the schedule of basic
2 rates in subdivision (a) shall be increased by 6 percent.
3 Notwithstanding any other provision of law, the 6-percent increase
4 provided for in this paragraph shall, retroactive to July 1, 1998,
5 apply to every county, including any county to which paragraph
6 (2) of subdivision (b) applies, and shall apply to foster care for
7 every age group.

8 (5) Notwithstanding any other provision of law, any increase
9 that takes effect after July 1, 1998, shall apply to every county,
10 including any county to which paragraph (2) of subdivision (b)
11 applies, and shall apply to foster care for every age group.

12 (6) The increase in the basic foster family home rate shall apply
13 only to children placed in a licensed foster family home receiving
14 the basic rate or in an approved home of a relative or nonrelative
15 extended family member, as described in Section 362.7, a
16 supervised independent living setting, as defined in subdivision
17 (w) of Section 11400, or a nonrelated legal guardian receiving the
18 basic rate. The increased rate shall not be used to compute the
19 monthly amount that may be paid to licensed foster family agencies
20 for the placement of children in certified foster homes.

21 (d) (1) (A) Beginning with the 1991–92 fiscal year, the
22 schedule of basic rates in subdivision (a) shall be adjusted by the
23 percentage changes in the California Necessities Index, computed
24 pursuant to the methodology described in Section 11453, subject
25 to the availability of funds.

26 (B) In addition to the adjustment in subparagraph (A) effective
27 January 1, 2000, the schedule of basic rates in subdivision (a) shall
28 be increased by 2.36 percent rounded to the nearest dollar.

29 (C) Effective January 1, 2008, the schedule of basic rates in
30 subdivision (a), as adjusted pursuant to subparagraph (B), shall be
31 increased by 5 percent, rounded to the nearest dollar. The increased
32 rate shall not be used to compute the monthly amount that may be
33 paid to licensed foster family agencies for the placement of children
34 in certified foster family homes, and shall not be used to recompute
35 the foster care maintenance payment that would have been paid
36 based on the age-related, state-approved foster family home care
37 rate and any applicable specialized care increment, for any adoption
38 assistance agreement entered into prior to October 1, 1992, or in
39 any subsequent reassessment for adoption assistance agreements
40 executed before January 1, 2008.

1 (2) (A) Any county that, as of the 1991–92 fiscal year, receives
2 state participation for a basic rate that exceeds the amount set forth
3 in the schedule of basic rates in subdivision (a) shall receive an
4 increase each year in state participation for that basic rate of
5 one-half of the percentage adjustments specified in paragraph (1)
6 until the difference between the county’s adjusted state
7 participation level for its basic rate and the adjusted schedule of
8 basic rates is eliminated.

9 (B) Notwithstanding subparagraph (A), all counties for the
10 1999–2000 fiscal year and the 2007–08 fiscal year shall receive
11 an increase in state participation for the basic rate of the entire
12 percentage adjustment described in paragraph (1).

13 (3) If a county has, after receiving the adjustments specified in
14 paragraph (2), a state participation level for a basic rate that is
15 below the amount set forth in the adjusted schedule of basic rates
16 for that fiscal year, the state participation level for that rate shall
17 be further increased to the amount specified in the adjusted
18 schedule of basic rates.

19 (e) (1) As used in this section, “specialized care increment”
20 means an approved amount paid with state participation on behalf
21 of an AFDC-FC child requiring specialized care to a home listed
22 in subdivision (a) in addition to the basic rate. On the effective
23 date of this section, the department shall continue and maintain
24 the current ratesetting system for specialized care.

25 (2) Any county that, as of the effective date of this section, has
26 in effect specialized care increments that have been approved by
27 the department, shall continue to receive state participation for
28 those payments.

29 (3) Any county that, as of the effective date of this section, has
30 in effect specialized care increments that exceed the amounts that
31 have been approved by the department, shall continue to receive
32 the same level of state participation as it received on the effective
33 date of this section.

34 (4) (A) Except for subparagraph (B), beginning January 1,
35 1990, specialized care increments shall be adjusted in accordance
36 with the methodology for the schedule of basic rates described in
37 ~~subdivision~~ *subdivisions* (c) and (d). No county shall receive state
38 participation for any increases in a specialized care increment
39 which exceeds the adjustments made in accordance with this
40 methodology.

1 (B) Notwithstanding subdivision (e) of Section 11460, for the
2 1993–94 fiscal year, an amount equal to 5 percent of the State
3 Treasury appropriation for family homes shall be added to the total
4 augmentation for the AFDC-FC program in order to provide
5 incentives and assistance to counties in the area of specialized
6 care. This appropriation shall be used, but not limited to,
7 encouraging counties to implement or expand specialized care
8 payment systems, to recruit and train foster parents for the
9 placement of children with specialized care needs, and to develop
10 county systems to encourage the placement of children in family
11 homes. It is the intent of the Legislature that in the use of these
12 funds, federal financial participation shall be claimed whenever
13 possible.

14 (f) (1) As used in this section, “clothing allowance” means the
15 amount paid with state participation in addition to the basic rate
16 for the provision of additional clothing for an AFDC-FC child,
17 including, but not limited to, an initial supply of clothing and
18 school or other uniforms.

19 (2) Any county that, as of the effective date of this section, has
20 in effect clothing allowances, shall continue to receive the same
21 level as it received on the effective date of this section.

22 (3) (A) Commencing in the 2007–08 fiscal year, for children
23 whose foster care payment is the responsibility of Colusa, Plumas,
24 and Tehama Counties, the amount of the clothing allowance may
25 be up to two hundred seventy-four dollars (\$274) per child per
26 year.

27 (B) Each county listed in subparagraph (A) that elects to receive
28 the clothing allowance shall submit a Clothing Allowance Program
29 Notification to the department within 60 days after the effective
30 date of the act that adds this paragraph.

31 (C) The Clothing Allowance Program Notification shall identify
32 the specific amounts to be paid and the disbursement schedule for
33 these clothing allowance payments.

34 (4) Beginning January 1, 1990, except as provided in paragraph
35 (5), clothing allowances shall be adjusted annually in accordance
36 with the methodology for the schedule of basic rates described in
37 ~~subdivision~~ *subdivisions* (c) and (d). No county shall be reimbursed
38 for any increases in clothing allowances which exceed the
39 adjustments made in accordance with this methodology.

1 (5) For the 2000–01 fiscal year and each fiscal year thereafter,
2 without a county share of cost, notwithstanding subdivision (c) of
3 Section 15200, each child shall be entitled to receive a
4 supplemental clothing allowance of one hundred dollars (\$100)
5 per year subject to the availability of funds. The clothing allowance
6 shall be used to supplement, and not supplant, the clothing
7 allowance specified in paragraph (1).

8 ~~SEC. 62.~~

9 *SEC. 71.* Section 11464 of the Welfare and Institutions Code
10 is amended to read:

11 11464. (a) The Legislature finds and declares all of the
12 following:

13 (1) Children who are consumers of regional center services and
14 also receiving Aid to Families with Dependent Children-Foster
15 Care (AFDC-FC), Kinship Guardianship Assistance ~~Payments~~
16 ~~(Kin-GAP) Payment (Kin-GAP) benefits~~, or Adoption Assistance
17 Program (AAP) benefits have special needs that can require care
18 and supervision beyond that typically provided to children in foster
19 care. Clarifying the roles of the child welfare and developmental
20 disabilities services systems will ensure that these children receive
21 the services and support they need in a timely manner and
22 encourage the successful adoption of these children, where
23 appropriate.

24 (2) To address the extraordinary care and supervision needs of
25 children who are consumers of regional center services and also
26 receiving AFDC-FC, Kin-GAP, or AAP benefits, it is necessary
27 to provide a rate for care and supervision of these children that is
28 higher than the average rate they would otherwise receive through
29 the foster care system and higher than the rate other children with
30 medical and other significant special needs receive.

31 (3) Despite the enhanced rate provided in this section, some
32 children who are consumers of regional center services and also
33 receiving AFDC-FC or AAP benefits may have care and
34 supervision needs that are so extraordinary that they cannot be
35 addressed within that rate. In these limited circumstances, a process
36 should be established whereby a supplement may be provided in
37 addition to the enhanced rate.

38 (4) Children who receive rates pursuant to this section shall be
39 afforded the same due process rights as all children who apply for
40 AFDC-FC, Kin-GAP, and AAP benefits pursuant to Section 10950.

1 (b) Rates for children who are both regional center consumers
2 and recipients of AFDC-FC or Kin-GAP benefits under this chapter
3 shall be determined as provided in Section 4684 and this section.

4 (c) (1) The rate to be paid for 24-hour out-of-home care and
5 supervision provided to children who are both consumers of
6 regional center services pursuant to subdivision (d) of Section
7 4512 and recipients of AFDC-FC benefits under this chapter shall
8 be two thousand six dollars (\$2,006) per child per month.

9 (2) (A) The county, at its sole discretion, may authorize a
10 supplement of up to one thousand dollars (\$1,000) to the rate for
11 children three years of age and older, if it determines the child has
12 the need for extraordinary care and supervision that cannot be met
13 within the rate established pursuant to paragraph (1). The State
14 Department of Social Services and the State Department of
15 Developmental Services, in consultation with stakeholders
16 representing county child welfare agencies, regional centers, and
17 children who are both consumers of regional center services and
18 recipients of AFDC-FC, Kin-GAP, or AAP benefits, shall develop
19 objective criteria to be used by counties in determining eligibility
20 for and the level of the supplements provided pursuant to this
21 paragraph. The State Department of Social Services shall issue an
22 all-county letter to implement these criteria within 120 days of the
23 effective date of this act. The criteria shall take into account the
24 extent to which the child has any of the following:

- 25 (i) Severe impairment in physical coordination and mobility.
- 26 (ii) Severe deficits in self-help skills.
- 27 (iii) Severely disruptive or self-injurious behavior.
- 28 (iv) A severe medical condition.

29 (B) The caregiver may request the supplement described in
30 subparagraph (A) directly or upon referral by a regional center.
31 Referral by a regional center shall not create the presumption of
32 eligibility for the supplement.

33 (C) When assessing a request for the supplement, the county
34 shall seek information from the consumer's regional center to assist
35 in the assessment. The county shall issue a determination of
36 eligibility for the supplement within 90 days of receipt of the
37 request. The county shall report to the State Department of Social
38 Services the number and level of rate supplements issued pursuant
39 to this paragraph.

1 (d) (1) The rate to be paid for 24-hour out-of-home care and
2 supervision provided for children who are receiving services under
3 the California Early Start Intervention Services Act, are not yet
4 determined by their regional center to have a developmental
5 disability, as defined in subdivisions (a) and (l) of Section 4512,
6 and are receiving AFDC-FC or Kin-GAP benefits under this
7 chapter, shall be eight hundred ninety-eight dollars (\$898) per
8 child per month. If a regional center subsequently determines that
9 the child is an individual with a developmental disability as that
10 term is defined by subdivisions (a) and (l) of Section 4512, the
11 rate to be paid from the date of that determination shall be
12 consistent with subdivision (c).

13 (2) The rates to be paid for 24-hour out-of-home nonmedical
14 care and supervision for children who are recipients of AFDC-FC
15 or Kin-GAP and consumers of regional center services from a
16 community care facility licensed pursuant to Chapter 3
17 (commencing with Section 1500) of Division 2 of the Health and
18 Safety Code and vendored by a regional center pursuant to Section
19 56004 of Title 17 of the California Code of Regulations, shall be
20 the facility rate established by the State Department of
21 Developmental Services.

22 (e) Rates paid pursuant to this section are subject to all of the
23 following requirements:

24 (1) The rates paid to the foster care provider under subdivision
25 (c) and paragraph (1) of subdivision (d) are only for the care and
26 supervision of the child, as defined in subdivision (b) of Section
27 11460 and shall not be applicable to facilities described in
28 paragraph (2) of subdivision (d).

29 (2) Regional centers shall separately purchase or secure the
30 services that are contained in the child's Individualized Family
31 Service Plan (IFSP) or Individual Program Plan (IPP), pursuant
32 to Section 4684.

33 (3) In the event that the schedule of basic foster care rates, as
34 specified in Section 11461, is increased on or after July 1, 2008,
35 the rates in subdivisions (c), (d), and (f) shall be similarly adjusted.
36 No county shall be reimbursed for any increase in this rate that
37 exceeds the adjustments made in accordance with this
38 methodology.

39 (f) (1) The AFDC-FC rates paid on behalf of a regional center
40 consumer who is a recipient of AFDC-FC prior to July 1, 2007,

1 shall remain in effect unless a change in the placement warrants
2 redetermination of the rate or if the child is no longer AFDC-FC
3 eligible. However, AFDC-FC rates paid on behalf of these children
4 that are lower than the rates specified in paragraph (1) of
5 subdivision (c) or paragraph (1) of subdivision (d), respectively,
6 shall be increased as appropriate to the amount set forth in
7 paragraph (1) of subdivision (c) or paragraph (1) of subdivision
8 (d), effective July 1, 2007, and shall remain in effect unless a
9 change in the placement or a change in AFDC-FC eligibility of
10 the child warrants redetermination of the rate.

11 (2) For a child who is receiving AFDC-FC benefits or for whom
12 a foster care eligibility determination is pending, and for whom
13 an eligibility determination for regional center services pursuant
14 to subdivision (a) of Section 4512 is pending or approved, and for
15 whom, prior to July 1, 2007, a State Department of Developmental
16 Services facility rate determination request has been made and is
17 pending, the rate shall be the State Department of Developmental
18 Services facility rate determined by the regional center through an
19 individualized assessment, or the rate established in paragraph (1)
20 of subdivision (c), whichever is greater. The rate shall remain in
21 effect until the child is no longer eligible to receive AFDC-FC, or,
22 if still AFDC-FC eligible, is found ineligible for regional center
23 services as an individual described in subdivision (a) of Section
24 4512. Other than the circumstances described in this section,
25 regional centers shall not establish facility rates for AFDC-FC
26 purposes.

27 (g) (1) The department shall adopt emergency regulations in
28 accordance with Chapter 3.5 (commencing with Section 11340)
29 of Part 1 of Division 3 of Title 2 of the Government Code, and for
30 the purposes of that chapter, including Section 11349.6 of the
31 Government Code, on or before July 1, 2009.

32 (2) The adoption of regulations pursuant to paragraph (1) shall
33 be deemed an emergency and necessary for the immediate
34 preservation of the public peace, health, safety, and general welfare.
35 The regulations authorized by this subdivision shall remain in
36 effect for no more than 180 days, by which time final regulations
37 shall be adopted.

38 (h) (1) The State Department of Social Services and the State
39 Department of Developmental Services shall provide to the Joint
40 legislative Budget Committee, on a semiannual basis, the data set

1 forth in paragraph (2) to facilitate legislative review of the
2 outcomes of the changes made by the addition of this section and
3 the amendments made to Sections 4684 and 16121 by the act
4 adding this section. The first report shall be submitted on October
5 1, 2007, with subsequent reports submitted on March 1 and October
6 1 of each year.

7 (2) The following data shall be provided pursuant to this
8 subdivision:

9 (A) The number of, and services provided to, children who are
10 consumers of regional center services and who are receiving AAP,
11 Kin-GAP, or AFDC-FC, broken out by children receiving the
12 amount pursuant to paragraph (1) of subdivision (c), the amount
13 pursuant to paragraph (1) of subdivision (d), and the level of
14 supplement pursuant to subparagraph (A) of paragraph (2) of
15 subdivision (c).

16 (B) A comparison of services provided to these children and
17 similar children who are regional center consumers who do not
18 receive AFDC-FC, Kin-GAP, or AAP benefits, broken out by
19 children receiving the amount pursuant to paragraph (1) of
20 subdivision (c), the amount pursuant to paragraph (1) of subdivision
21 (d), and the level of supplement pursuant to subparagraph (A) of
22 paragraph (2) of subdivision (c).

23 (C) The number and nature of appeals filed regarding services
24 provided or secured by regional centers for these children,
25 consistent with Section 4714, broken out by children receiving the
26 amount pursuant to paragraph (1) of subdivision (c), the amount
27 pursuant to paragraph (1) of subdivision (d), and the level of
28 supplement pursuant to subparagraph (A) of paragraph (2) of
29 subdivision (c).

30 (D) The number of these children who are adopted before and
31 after the act adding this section, broken out by children receiving
32 the amount pursuant to paragraph (1) of subdivision (c), the amount
33 pursuant to paragraph (1) of subdivision (d), and the level of
34 supplement pursuant to subparagraph (A) of paragraph (2) of
35 subdivision (c).

36 (E) The number and levels of supplements requested pursuant
37 to subparagraph (B) of paragraph (2) of subdivision (c).

38 (F) The number of appeals requested of the decision by counties
39 to deny the request for the supplement pursuant to subparagraph
40 (A) of paragraph (2) of subdivision (c).

1 (G) The total number and levels of supplements authorized
2 pursuant to subparagraph (A) of paragraph (2) of subdivision (c)
3 and the number of these supplements authorized upon appeal.

4 (i) Commencing ~~October 1, 2010~~ *January 1, 2012*, the rate
5 described in subdivision (c) shall be paid for an eligible nonminor
6 dependent who is under 21 years of age, is receiving AFDC-FC
7 or Kin-GAP benefits pursuant to Section 11403, and is a consumer
8 of regional center services.

9 ~~SEC. 63.~~

10 *SEC. 72.* Section 11465 of the Welfare and Institutions Code
11 is amended to read:

12 11465. (a) When a child is living with a parent who receives
13 AFDC-FC or Kin-GAP benefits, the rate paid to the provider on
14 behalf of the parent shall include an amount for care and
15 supervision of the child.

16 (b) For each category of eligible licensed community care
17 facility, as defined in Section 1502 of the Health and Safety Code,
18 the department shall adopt regulations setting forth a uniform rate
19 to cover the cost of care and supervision of the child in each
20 category of eligible licensed community care facility.

21 (c) (1) On and after July 1, 1998, the uniform rate to cover the
22 cost of care and supervision of a child pursuant to this section shall
23 be increased by 6 percent, rounded to the nearest dollar. The
24 resultant amounts shall constitute the new uniform rate.

25 (2) (A) On and after July 1, 1999, the uniform rate to cover the
26 cost of care and supervision of a child pursuant to this section shall
27 be adjusted by an amount equal to the California Necessities Index
28 computed pursuant to Section 11453, rounded to the nearest dollar.
29 The resultant amounts shall constitute the new uniform rate, subject
30 to further adjustment pursuant to subparagraph (B).

31 (B) In addition to the adjustment specified in subparagraph (A),
32 on and after January 1, 2000, the uniform rate to cover the cost of
33 care and supervision of a child pursuant to this section shall be
34 increased by 2.36 percent, rounded to the nearest dollar. The
35 resultant amounts shall constitute the new uniform rate.

36 (3) Subject to the availability of funds, for the 2000–01 fiscal
37 year and annually thereafter, these rates shall be adjusted for cost
38 of living pursuant to procedures in Section 11453.

39 (4) On and after January 1, 2008, the uniform rate to cover the
40 cost of care and supervision of a child pursuant to this section shall

1 be increased by 5 percent, rounded to the nearest dollar. The
2 resulting amount shall constitute the new uniform rate.

3 (d) (1) Notwithstanding subdivisions (a) to (c), inclusive, the
4 payment made pursuant to this section for care and supervision of
5 a child who is living with a teen parent in a whole family foster
6 home, as defined in Section 11400, shall equal the basic rate for
7 children placed in a licensed or approved home as specified in
8 subdivisions (a) to (d), inclusive, of Section 11461.

9 (2) The amount paid for care and supervision of a dependent
10 infant living with a dependent teen parent receiving AFDC-FC
11 benefits in a group home placement shall equal the infant
12 supplement rate for group home placements.

13 (3) The caregiver shall provide the county child welfare agency
14 or probation department with a copy of the shared responsibility
15 plan developed pursuant to Section 16501.25 and shall advise the
16 county child welfare agency or probation department of any
17 subsequent changes to the plan. Once the plan has been completed
18 and provided to the appropriate agencies, the payment made
19 pursuant to this section shall be increased by an additional two
20 hundred dollars (\$200) per month to reflect the increased care and
21 supervision while he or she is placed in the whole family foster
22 home.

23 (4) In any year in which the payment provided pursuant to this
24 section is adjusted for the cost of living as provided in paragraph
25 (1) of subdivision (c), the payments provided for in this subdivision
26 shall also be increased by the same procedures.

27 (5) A Kin-GAP relative who, immediately prior to entering the
28 Kin-GAP program, was designated as a whole family foster home
29 shall receive the same payment amounts for the care and
30 supervision of a child who is living with a teen parent they received
31 in foster care as a whole family foster home.

32 (6) On and after ~~October 1, 2010~~ *January 1, 2012*, the rate paid
33 for a child living with a teen parent in a whole family foster home
34 as defined in Section 11400 shall also be paid for a child living
35 with a nonminor dependent parent who is eligible to receive
36 AFDC-FC or Kin-GAP pursuant to Section 11403.

37 ~~SEC. 64.~~

38 *SEC. 73.* Section 11466.23 of the Welfare and Institutions
39 Code is amended to read:

1 11466.23. (a) It is the intent of the Legislature to comply with
2 the federal requirements of the Improper Payments Act of 2002
3 with respect to the remittance of the federal share of foster care
4 overpayments.

5 (b) For the purposes of this section, a federal foster care or
6 adoption assistance overpayment is defined as any amount of aid
7 paid to which a foster care provider or adoption assistance recipient
8 was not entitled, including any overpayment identified by a foster
9 care provider as described in Section 11400, or federal Adoption
10 Assistance Program recipient as described in Chapter 2.1
11 (commencing with Section 16115) of Part 4, and on and after
12 ~~October 1, 2010~~ *January 1, 2012*, any federal Kin-GAP aid paid
13 to which a related guardian was not entitled, including any
14 overpayment identified by a federal Kin-GAP recipient as described
15 in Article 4.7 (commencing with Section 11385).

16 (c) Counties shall be required to remit the appropriate amount
17 of federal funds upon identification of the overpayment, following
18 the completion of due process.

19 (1) Counties shall not be required to repay the overpayment
20 when any of the following occurs:

21 (A) The amount is legally uncollectible, including any amount
22 legally uncollectible pursuant to Section 11466.24.

23 (B) The cost of collection exceeds the overpayment.

24 (C) The foster family agency or group home is no longer in
25 business or licensed by the department.

26 (2) Remittance of overpayments of federal AFDC-FC funds,
27 federal Kin-GAP, and federal AAP funds not excluded by
28 paragraph (1) shall be shared by the state and the counties based
29 on a 40-percent state, 60-percent county sharing ratio. Upon actual
30 collection of any overpayments from providers or recipients, the
31 county shall ensure that the total amount reimbursed to the state
32 reflects the federal and state share of the overpayment costs, as
33 specified. All overpayments of federal AFDC-FC funds, federal
34 Kin-GAP, and federal AAP funds included in paragraph (1) shall
35 be repaid completely with state funds.

36 (3) Nothing in this section shall inhibit existing county authority
37 to collect overpayments.

38 (4) Nothing in this section shall inhibit existing county
39 responsibility to remit voluntary overpayments upon collection.

1 (d) (1) The department shall adopt regulations to implement
2 this section by December 31, 2008. Notwithstanding Chapter 3.5
3 (commencing with Section 11340) of Part 1 of Division 3 of Title
4 2 of the Government Code, the department, in consultation and
5 coordination with the County Welfare Directors Association, may
6 adopt emergency regulations to implement this section.

7 (2) The adoption of emergency regulations pursuant to
8 subdivision (a) shall be deemed to be an emergency and necessary
9 for the immediate preservation of the public peace, health, safety,
10 or general welfare. The emergency regulations authorized by this
11 section shall be submitted to the Office of Administrative Law for
12 filing with the Secretary of State and shall remain in effect for no
13 more than 180 days, by which time final regulations shall be
14 adopted.

15 (e) The department may only require counties to remit payment
16 of the federal share for overpayments upon identification that occur
17 on or after the effective date of regulations adopted pursuant to
18 this section.

19 ~~SEC. 65.~~

20 *SEC. 74.* Section 11466.24 of the Welfare and Institutions
21 Code is amended to read:

22 11466.24. (a) In accordance with this section, a county shall
23 collect an overpayment, discovered on or after January 1, 1999,
24 made to a foster family home, an approved home of a relative,
25 including the home of a Kin-GAP guardian, an approved home of
26 a nonrelative extended family member, or an approved home of a
27 nonrelative legal guardian, or the supervised independent living
28 setting where a nonminor dependent resides, for any period of time
29 in which the foster child was not cared for in that home, unless
30 any of the following conditions exist, in which case a county shall
31 not collect the overpayment:

32 (1) The cost of the collection exceeds that amount of the
33 overpayment that is likely to be recovered by the county. The cost
34 of collecting the overpayment and the likelihood of collection shall
35 be documented by the county. Costs that the county shall consider
36 when determining the cost-effectiveness to collect are total
37 administrative, personnel, legal filing fee, and investigative costs,
38 and any other applicable costs.

39 (2) The child was temporarily removed from the home and
40 payment was owed to the provider to maintain the child's

1 placement, or the child was temporarily absent from the provider's
2 home, or on runaway status and subsequently returned, and
3 payment was made to the provider to meet the child's needs.

4 (3) The overpayment was exclusively the result of a county
5 administrative error or both the county welfare department and
6 the provider or nonminor dependent were unaware of the
7 information that would establish that the foster child or nonminor
8 dependent was not eligible for foster care benefits.

9 (4) The provider or nonminor dependent did not have knowledge
10 of, and did not contribute to, the cause of the overpayment.

11 (b) (1) After notification by a county of an overpayment to a
12 foster family home, an approved home of a relative, including the
13 home of a Kin-GAP guardian, or a nonrelative extended family
14 member, approved home of a nonrelative legal guardian, or the
15 supervised independent living setting where the nonminor
16 dependent resides, and a demand letter for repayment, the foster
17 parent, approved relative, approved nonrelative legal guardian, or
18 nonminor dependent may request the county welfare department
19 to review the overpayment determination in an informal hearing,
20 or may file with the department a request for a hearing to appeal
21 the overpayment determination. Requesting an informal hearing
22 shall not preclude a payee from seeking a formal hearing at a later
23 date. The county welfare department shall dismiss the overpayment
24 repayment request if it determines the action to be incorrect through
25 an initial review prior to a state hearing, or through a review in an
26 informal hearing held at the request of the foster parent, relative,
27 nonrelative legal guardian, or nonminor dependent.

28 (2) If an informal hearing does not result in the dismissal of the
29 overpayment, or a formal appeal hearing is not requested, or on
30 the 30th day following a formal appeal hearing decision, whichever
31 is later, the foster family provider overpayment shall be sustained
32 for collection purposes.

33 (3) The department shall adopt regulations that ensure that the
34 best interests of the child or nonminor dependent shall be the
35 primary concern of the county welfare director in any repayment
36 agreement.

37 (c) (1) The department shall develop regulations for recovery
38 of overpayments made to any foster family home, approved home
39 of a relative, approved home of a nonrelative legal guardian, or
40 supervised independent living setting where a nonminor dependent

1 resides. The regulations shall prioritize collection methods, that
2 shall include voluntary repayment agreement procedures and
3 involuntary overpayment collection procedures. These procedures
4 shall take into account the amount of the overpayment and a
5 minimum required payment amount.

6 (2) A county shall not collect an overpayment through the use
7 of an involuntary payment agreement unless a foster family home,
8 an approved home of a relative, approved home of a nonrelative
9 legal guardian, or supervised independent living setting where a
10 nonminor dependent resides has rejected the offer of a voluntary
11 overpayment agreement, or has failed to comply with the terms of
12 the voluntary overpayment agreement.

13 (3) A county shall not be permitted to collect an overpayment
14 through the offset of payments due to a foster family home, an
15 approved home of a relative, approved home of a nonrelative legal
16 guardian or supervised independent living setting where a nonminor
17 dependent resides, unless this method of repayment is requested
18 by the provider or nonminor dependent in a voluntary repayment
19 agreement, or other circumstances defined by the department by
20 regulation.

21 (d) If a provider or nonminor dependent is successful in its
22 appeal of a collected overpayment, it shall be repaid the collected
23 overpayment plus simple interest based on the Surplus Money
24 Investment Fund.

25 (e) A county may not collect interest on the repayment of an
26 overpayment.

27 (f) There shall be a one-year statute of limitations from the date
28 upon which the county determined that there was an overpayment.

29 ~~SEC. 66. Section 16120 of the Welfare and Institutions Code~~
30 ~~is amended to read:~~

31 ~~16120. A child shall be eligible for Adoption Assistance~~
32 ~~Program benefits if all of the conditions specified in subdivisions~~
33 ~~(a) through (g), inclusive, are met or if the conditions specified in~~
34 ~~subdivision (h) are met.~~

35 ~~(a) The child has at least one of the following characteristics~~
36 ~~that are barriers to his or her adoption:~~

37 ~~(1) Adoptive placement without financial assistance is unlikely~~
38 ~~because of membership in a sibling group that should remain intact~~
39 ~~or by virtue of race, ethnicity, color, language, age of three years~~
40 ~~or older, or parental background of a medical or behavioral nature~~

1 that can be determined to adversely affect the development of the
2 child.

3 ~~(2) Adoptive placement without financial assistance is unlikely~~
4 ~~because the child has a mental, physical, emotional, or medical~~
5 ~~disability that has been certified by a licensed professional~~
6 ~~competent to make an assessment and operating within the scope~~
7 ~~of his or her profession. This paragraph shall also apply to children~~
8 ~~with a developmental disability as defined in subdivision (a) of~~
9 ~~Section 4512, including those determined to require out-of-home~~
10 ~~nonmedical care as described in Section 11464.~~

11 ~~(b) The need for adoption subsidy is evidenced by an~~
12 ~~unsuccessful search for an adoptive home to take the child without~~
13 ~~financial assistance, as documented in the case file of the~~
14 ~~prospective adoptive child. The requirement for this search shall~~
15 ~~be waived when it would be against the best interest of the child~~
16 ~~because of the existence of significant emotional ties with~~
17 ~~prospective adoptive parents while in the care of these persons as~~
18 ~~a foster child.~~

19 ~~(e) The child satisfies either of the following criteria:~~

20 ~~(1) At the time a petition for an agency adoption, as defined in~~
21 ~~Section 8506 of the Family Code, or an independent adoption, as~~
22 ~~defined in Section 8524 of the Family Code, is filed, the child has~~
23 ~~met the requirements to receive federal supplemental security~~
24 ~~income benefits pursuant to Subchapter 16 (commencing with~~
25 ~~Section 1381) of Chapter 7 of Title 42 of the United States Code,~~
26 ~~as determined and documented by the federal Social Security~~
27 ~~Administration.~~

28 ~~(2) The child is the subject of an agency adoption as defined in~~
29 ~~Section 8506 of the Family Code and was any of the following:~~

30 ~~(A) Under the supervision of a county welfare department as~~
31 ~~the subject of a legal guardianship or juvenile court dependency.~~

32 ~~(B) Relinquished for adoption to a licensed California private~~
33 ~~or public adoption agency, or the department, and would have~~
34 ~~otherwise been at risk of dependency as certified by the responsible~~
35 ~~public child welfare agency.~~

36 ~~(C) Committed to the care of the department pursuant to Section~~
37 ~~8805 or 8918 of the Family Code.~~

38 ~~(d) The child satisfies any of the following criteria:~~

39 ~~(1) He or she is under 18 years of age.~~

- 1 ~~(2) He or she is under 21 years of age and has a mental or~~
2 ~~physical handicap that warrants the continuation of assistance.~~
- 3 ~~(3) He or she is under 21 years of age and attained 16 years of~~
4 ~~age before the adoption assistance agreement became effective,~~
5 ~~and one or more of the following applies:~~
- 6 ~~(A) The youth is completing secondary education or a program~~
7 ~~leading to an equivalent credential.~~
- 8 ~~(B) The youth is enrolled in an institution that provides~~
9 ~~postsecondary or vocational education.~~
- 10 ~~(C) The youth is participating in a program or activity designed~~
11 ~~to promote, or remove barriers to employment.~~
- 12 ~~(D) The youth is employed for at least 80 hours per month.~~
- 13 ~~(E) The youth is incapable of doing any of the activities~~
14 ~~described in subparagraphs (A) to (D), inclusive, due to a medical~~
15 ~~condition, and that incapability is supported by regularly updated~~
16 ~~information in the case plan of the child.~~
- 17 ~~(e) The adoptive family is responsible for the child pursuant to~~
18 ~~the terms of an adoptive placement agreement or a final decree of~~
19 ~~adoption and has signed an adoption assistance agreement.~~
- 20 ~~(f) The adoptive family is legally responsible for the support of~~
21 ~~the child and the child is receiving support from the adoptive~~
22 ~~parent.~~
- 23 ~~(g) The department or the county responsible for determining~~
24 ~~the child's Adoption Assistance Program eligibility status and for~~
25 ~~providing financial aid, and the prospective adoptive parent, prior~~
26 ~~to or at the time the adoption decree is issued by the court, have~~
27 ~~signed an adoption assistance agreement that stipulates the need~~
28 ~~for, and the amount of, Adoption Assistance Program benefits.~~
- 29 ~~(h) A child shall be eligible for Adoption Assistance Program~~
30 ~~benefits if the child received Adoption Assistance Program benefits~~
31 ~~with respect to a prior adoption and the child is again available for~~
32 ~~adoption because the prior adoption was dissolved and the parental~~
33 ~~rights of the adoptive parents were terminated or because the~~
34 ~~child's adoptive parents died.~~
- 35 ~~SEC. 75. Section 16120 of the Welfare and Institutions Code,~~
36 ~~as amended by Section 19 of Chapter 287 of the Statutes of 2009,~~
37 ~~is amended to read:~~
- 38 ~~16120. A child shall be eligible for Adoption Assistance~~
39 ~~Program benefits if all of the conditions specified in subdivisions~~

1 (a) to (l), inclusive, are met or if the conditions specified in
2 subdivision (m) are met.

3 (a) It has been determined that the child cannot or should not
4 be returned to the home of his or her parents as evidenced by a
5 petition for termination of parental rights, a court order terminating
6 parental rights, or a signed relinquishment, or, in the case of a
7 tribal customary adoption, if the court has given full faith and
8 credit to a tribal customary adoption order as provided for pursuant
9 to paragraph (2) of subdivision (e) of Section 366.26.

10 (b) The child has at least one of the following characteristics
11 that are barriers to his or her adoption:

12 (1) Adoptive placement without financial assistance is unlikely
13 because of membership in a sibling group that should remain intact
14 or by virtue of race, ethnicity, color, language, three years of age
15 or older, or parental background of a medical or behavioral nature
16 that can be determined to adversely affect the development of the
17 child.

18 (2) Adoptive placement without financial assistance is unlikely
19 because the child has a mental, physical, emotional, or medical
20 disability that has been certified by a licensed professional
21 competent to make an assessment and operating within the scope
22 of his or her profession. This paragraph shall also apply to children
23 with a developmental disability, as defined in subdivision (a) of
24 Section 4512, including those determined to require out-of-home
25 nonmedical care, as described in Section 11464.

26 (c) The need for adoption subsidy is evidenced by an
27 unsuccessful search for an adoptive home to take the child without
28 financial assistance, as documented in the case file of the
29 prospective adoptive child. The requirement for this search shall
30 be waived when it would be against the best interest of the child
31 because of the existence of significant emotional ties with
32 prospective adoptive parents while in the care of these persons as
33 a foster child.

34 ~~(d) The child is under 18 years of age, or under 21 years of age~~
35 ~~and has a mental or physical handicap that warrants the~~
36 ~~continuation of assistance. The child satisfies any of the following~~
37 ~~criteria:~~

38 (1) *He or she is under 18 years of age.*

39 (2) *He or she is under 21 years of age and has a mental or*
40 *physical handicap that warrants the continuation of assistance.*

1 (3) *He or she is under 21 years of age and attained 16 years of*
2 *age before the adoption assistance agreement became effective,*
3 *and one or more of the following applies:*

4 (A) *The youth is completing secondary education or a program*
5 *leading to an equivalent credential.*

6 (B) *The youth is enrolled in an institution that provides*
7 *postsecondary or vocational education.*

8 (C) *The youth is participating in a program or activity designed*
9 *to promote or remove barriers to employment.*

10 (D) *The youth is employed for at least 80 hours per month.*

11 (E) *The youth is incapable of doing any of the activities*
12 *described in subparagraphs (A) to (D), inclusive, due to a medical*
13 *condition, and that incapability is supported by regularly updated*
14 *information in the case plan of the child.*

15 (e) The adoptive family is responsible for the child pursuant to
16 the terms of an adoptive placement agreement or a final decree of
17 adoption and has signed an adoption assistance agreement.

18 (f) The adoptive family is legally responsible for the support of
19 the child and the child is receiving support from the adoptive
20 parent.

21 (g) The department or the county responsible for determining
22 the child's Adoption Assistance Program eligibility status and for
23 providing financial aid, and the prospective adoptive parent, prior
24 to or at the time the adoption decree is issued by the court, have
25 signed an adoption assistance agreement that stipulates the need
26 for, and the amount of, Adoption Assistance Program benefits.

27 (h) The prospective adoptive parent or any adult living in the
28 prospective adoptive home has completed the criminal background
29 check requirements pursuant to Section 671(a)(20)(A) and (C) of
30 Title 42 of the United States Code.

31 (i) To be eligible for state funding, the child is the subject of an
32 agency adoption, as defined in Section 8506 of the Family Code
33 and was any of the following:

34 (1) Under the supervision of a county welfare department as
35 the subject of a legal guardianship or juvenile court dependency.

36 (2) Relinquished for adoption to a licensed California private
37 or public adoption agency, or another public agency operating a
38 Title IV-E program on behalf of the state, and would have
39 otherwise been at risk of dependency as certified by the responsible
40 public child welfare agency.

1 (3) Committed to the care of the department pursuant to Section
2 8805 or 8918 of the Family Code.

3 (4) The child is an Indian child and the subject of an order of
4 adoption based on tribal customary adoption of an Indian child,
5 as described in Section 366.24. Notwithstanding Section 8600.5
6 of the Family Code, for purposes of this subdivision a tribal
7 customary adoption shall be considered an agency adoption.

8 (j) To be eligible for federal funding, in the case of a child who
9 is not an applicable child for the federal fiscal year as defined in
10 subdivision (n), the child ~~meets~~ *satisfies* any of the following
11 criteria:

12 (1) Prior to the finalization of an agency adoption, as defined
13 in Section 8506 of the Family Code, or an independent adoption,
14 as defined in Section 8524 of the Family Code, is filed, the child
15 has met the requirements to receive federal supplemental security
16 income benefits pursuant to Subchapter 16 (commencing with
17 Section 1381) of Chapter 7 of Title 42 of the United States Code,
18 as determined and documented by the federal Social Security
19 Administration.

20 (2) The child was removed from the home of a specified relative
21 and the child would have been AFDC-eligible in the home of
22 removal according to Section 606(a) or 607 of Title 42 of the
23 United States Code, as those sections were in effect on July 16,
24 1996, in the month of the voluntary placement agreement or in the
25 month court proceedings are initiated to remove the child, resulting
26 in a judicial determination that continuation in the home would be
27 contrary to the child's welfare. The child must have been living
28 with the specified relative from whom he or she was removed
29 within six months of the month the voluntary placement agreement
30 was signed or the petition to remove was filed.

31 (3) The child was voluntarily relinquished to a licensed public
32 or private adoption agency, or another public agency operating a
33 Title IV-E program on behalf of the state, and there is a petition
34 to the court to remove the child from the home within six months
35 of the time the child lived with a specified relative and a subsequent
36 judicial determination that remaining in the home would be
37 contrary to the child's welfare.

38 (4) Title IV-E foster care maintenance was paid on behalf of
39 the child's minor parent and covered the cost of the minor parent's

1 child while the child was in the foster family home or child care
2 institution with the minor parent.

3 (5) The child is an Indian child and the subject of an order of
4 adoption based on tribal customary adoption of an Indian child,
5 as described in Section 366.24.

6 (k) To be eligible for federal funding, in the case of a child who
7 is an applicable child for the federal fiscal year, as defined in
8 subdivision (n), the child meets any of the following criteria:

9 (1) At the time of initiation of adoptive proceedings was in the
10 care of a public or licensed private child placement agency or
11 Indian tribal organization pursuant to either of the following:

12 (A) An involuntary removal of the child from the home in
13 accordance with a judicial determination to the effect that
14 continuation in the home would be contrary to the welfare of the
15 child.

16 (B) A voluntary placement agreement or a voluntary
17 relinquishment.

18 (2) He or she meets all medical or disability requirements of
19 Title XVI with respect to eligibility for supplemental security
20 income benefits.

21 (3) He or she was residing in a foster family home or a child
22 care institution with the child's minor parent, and the child's minor
23 parent was in the foster family home or child care institution
24 pursuant to either of the following:

25 (A) An involuntary removal of the child from the home in
26 accordance with a judicial determination to the effect that
27 continuation in the home would be contrary to the welfare of the
28 child.

29 (B) A voluntary placement agreement or voluntary
30 relinquishment.

31 (4) The child is an Indian child and the subject of an order of
32 adoption based on tribal customary adoption of an Indian child,
33 as described in Section 366.24.

34 (l) The child is a citizen of the United States or a qualified alien
35 as defined in Section 1641 of Title 8 of the United States Code. If
36 the child is a qualified alien who entered the United States on or
37 after August 22, 1996, and is placed with an unqualified alien, the
38 child must meet the five-year residency requirement pursuant to
39 Section 673(a)(2)(B) of Title 42 of the United States Code, unless

1 the child is a member of one of the excepted groups pursuant to
2 Section 1612(b) of Title 8 of the United States Code.

3 (m) A child shall be eligible for Adoption Assistance Program
4 benefits if the following conditions are met:

5 (1) The child received Adoption Assistance Program benefits
6 with respect to a prior adoption and the child is again available for
7 adoption because the prior adoption was dissolved and the parental
8 rights of the adoptive parents were terminated or because the
9 child's adoptive parents died and the child meets the special needs
10 criteria described in subdivisions (a) to (c), inclusive.

11 (2) To receive federal funding, the citizenship requirements in
12 subdivision (l).

13 (n) (1) Except as provided in this subdivision, "applicable child"
14 means a child for whom an adoption assistance agreement is
15 entered into under this section during any federal fiscal year
16 described in this subdivision if the child attained the applicable
17 age for that federal fiscal year before the end of that federal fiscal
18 year.

19 (A) For federal fiscal year 2010, the applicable age is 16 years.

20 (B) For federal fiscal year 2011, the applicable age is 14 years.

21 (C) For federal fiscal year 2012, the applicable age is 12 years.

22 (D) For federal fiscal year 2013, the applicable age is 10 years.

23 (E) For federal fiscal year 2014, the applicable age is eight years.

24 (F) For federal fiscal year 2015, the applicable age is six years.

25 (G) For federal fiscal year 2016, the applicable age is four years.

26 (H) For federal fiscal year 2017, the applicable age is two years.

27 (I) For federal fiscal year 2018 and thereafter, any age.

28 (2) Beginning with the 2010 federal fiscal year, the term
29 "applicable child" shall include a child of any age on the date on
30 which an adoption assistance agreement is entered into on behalf
31 of the child under this section if the child meets both of the
32 following criteria:

33 (A) He or she has been in foster care under the responsibility
34 of the state for at least 60 consecutive months.

35 (B) He or she meets the requirements of subdivision (k).

36 (3) Beginning with the 2010 federal fiscal year, an applicable
37 child shall include a child of any age on the date that an adoption
38 assistance agreement is entered into on behalf of the child under
39 this section, without regard to whether the child is described in
40 paragraph (2), if the child meets all of the following criteria:

1 (A) He or she is a sibling of a child who is an applicable child
2 for the federal fiscal year, under subdivision (n) or paragraph (2).

3 (B) He or she is to be placed in the same adoption placement
4 as an “applicable child” for the federal fiscal year who is their
5 sibling.

6 (C) He or she meets the requirements of subdivision (k).

7 (o) This section shall remain in effect only until January 1, 2014,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2014, deletes or extends that date.

10 *SEC. 76. Section 16120 of the Welfare and Institutions Code,*
11 *as added by Section 20 of Chapter 287 of the Statutes of 2009, is*
12 *amended to read:*

13 16120. A child shall be eligible for Adoption Assistance
14 Program benefits if all of the conditions specified in subdivisions
15 (a) to (l), inclusive, are met or if the conditions specified in
16 subdivision (m) are met.

17 (a) It has been determined that the child cannot or should not
18 be returned to the home of his or her parents as evidenced by a
19 petition for termination of parental rights, a court order terminating
20 parental rights, or a signed relinquishment.

21 (b) The child has at least one of the following characteristics
22 that are barriers to his or her adoption:

23 (1) Adoptive placement without financial assistance is unlikely
24 because of membership in a sibling group that should remain intact
25 or by virtue of race, ethnicity, color, language, three years of age
26 or older, or parental background of a medical or behavioral nature
27 that can be determined to adversely affect the development of the
28 child.

29 (2) Adoptive placement without financial assistance is unlikely
30 because the child has a mental, physical, emotional, or medical
31 disability that has been certified by a licensed professional
32 competent to make an assessment and operating within the scope
33 of his or her profession. This paragraph shall also apply to children
34 with a developmental disability, as defined in subdivision (a) of
35 Section 4512, including those determined to require out-of-home
36 nonmedical care, as described in Section 11464.

37 (c) The need for adoption subsidy is evidenced by an
38 unsuccessful search for an adoptive home to take the child without
39 financial assistance, as documented in the case file of the
40 prospective adoptive child. The requirement for this search shall

1 be waived when it would be against the best interest of the child
2 because of the existence of significant emotional ties with
3 prospective adoptive parents while in the care of these persons as
4 a foster child.

5 ~~(d) The child is under 18 years of age, or under 21 years of age~~
6 ~~and has a mental or physical handicap that warrants the~~
7 ~~continuation of assistance.~~ *The child satisfies any of the following*
8 *criteria:*

9 *(1) He or she is under 18 years of age.*

10 *(2) He or she is under 21 years of age and has a mental or*
11 *physical handicap that warrants the continuation of assistance.*

12 *(3) He or she is under 21 years of age and attained 16 years of*
13 *age before the adoption assistance agreement became effective,*
14 *and one or more of the following applies:*

15 *(A) The youth is completing secondary education or a program*
16 *leading to an equivalent credential.*

17 *(B) The youth is enrolled in an institution that provides*
18 *postsecondary or vocational education.*

19 *(C) The youth is participating in a program or activity designed*
20 *to promote or remove barriers to employment.*

21 *(D) The youth is employed for at least 80 hours per month.*

22 *(E) The youth is incapable of doing any of the activities*
23 *described in subparagraphs (A) to (D), inclusive, due to a medical*
24 *condition, and that incapability is supported by regularly updated*
25 *information in the case plan of the child.*

26 *(e) The adoptive family is responsible for the child pursuant to*
27 *the terms of an adoptive placement agreement or a final decree of*
28 *adoption and has signed an adoption assistance agreement.*

29 *(f) The adoptive family is legally responsible for the support of*
30 *the child and the child is receiving support from the adoptive*
31 *parent.*

32 *(g) The department or the county responsible for determining*
33 *the child's Adoption Assistance Program eligibility status and for*
34 *providing financial aid, and the prospective adoptive parent, prior*
35 *to or at the time the adoption decree is issued by the court, have*
36 *signed an adoption assistance agreement that stipulates the need*
37 *for, and the amount of, Adoption Assistance Program benefits.*

38 *(h) The prospective adoptive parent or any adult living in the*
39 *prospective adoptive home has completed the criminal background*

1 check requirements pursuant to Section 671(a)(20)(A) and (C) of
2 Title 42 of the United States Code.

3 (i) To be eligible for state funding, the child is the subject of an
4 agency adoption, as defined in Section 8506 of the Family Code
5 and was any of the following:

6 (1) Under the supervision of a county welfare department as
7 the subject of a legal guardianship or juvenile court dependency.

8 (2) Relinquished for adoption to a licensed California private
9 or public adoption agency, or another public agency operating a
10 Title IV-E program on behalf of the state, and would have
11 otherwise been at risk of dependency as certified by the responsible
12 public child welfare agency.

13 (3) Committed to the care of the department pursuant to Section
14 8805 or 8918 of the Family Code.

15 (j) To be eligible for federal funding, in the case of a child who
16 is not an applicable child for the federal fiscal year as defined in
17 subdivision (n), the child ~~meets~~ *satisfies* any of the following
18 criteria:

19 (1) Prior to the finalization of an agency adoption, as defined
20 in Section 8506 of the Family Code, or an independent adoption,
21 as defined in Section 8524 of the Family Code, is filed, the child
22 has met the requirements to receive federal supplemental security
23 income benefits pursuant to Subchapter 16 (commencing with
24 Section 1381) of Chapter 7 of Title 42 of the United States Code,
25 as determined and documented by the federal Social Security
26 Administration.

27 (2) The child was removed from the home of a specified relative
28 and the child would have been AFDC-eligible in the home of
29 removal according to Section 606(a) or 607 of Title 42 of the
30 United States Code, as those sections were in effect on July 16,
31 1996, in the month of the voluntary placement agreement or in the
32 month court proceedings are initiated to remove the child, resulting
33 in a judicial determination that continuation in the home would be
34 contrary to the child's welfare. The child must have been living
35 with the specified relative from whom he or she was removed
36 within six months of the month the voluntary placement agreement
37 was signed or the petition to remove was filed.

38 (3) The child was voluntarily relinquished to a licensed public
39 or private adoption agency, or another public agency operating a
40 Title IV-E program on behalf of the state, and there is a petition

1 to the court to remove the child from the home within six months
2 of the time the child lived with a specified relative and a subsequent
3 judicial determination that remaining in the home would be
4 contrary to the child's welfare.

5 (4) Title IV-E foster care maintenance was paid on behalf of
6 the child's minor parent and covered the cost of the minor parent's
7 child while the child was in the foster family home or child care
8 institution with the minor parent.

9 (k) To be eligible for federal funding, in the case of a child who
10 is an applicable child for the federal fiscal year, as defined in
11 subdivision (n), the child meets any of the following criteria:

12 (1) At the time of initiation of adoptive proceedings was in the
13 care of a public or licensed private child placement agency or
14 Indian tribal organization pursuant to either of the following:

15 (A) An involuntary removal of the child from the home in
16 accordance with a judicial determination to the effect that
17 continuation in the home would be contrary to the welfare of the
18 child.

19 (B) A voluntary placement agreement or a voluntary
20 relinquishment.

21 (2) He or she meets all medical or disability requirements of
22 Title XVI with respect to eligibility for supplemental security
23 income benefits.

24 (3) He or she was residing in a foster family home or a child
25 care institution with the child's minor parent, and the child's minor
26 parent was in the foster family home or child care institution
27 pursuant to either of the following:

28 (A) An involuntary removal of the child from the home in
29 accordance with a judicial determination to the effect that
30 continuation in the home would be contrary to the welfare of the
31 child.

32 (B) A voluntary placement agreement or voluntary
33 relinquishment.

34 (l) The child is a citizen of the United States or a qualified alien
35 as defined in Section 1641 of Title 8 of the United States Code. If
36 the child is a qualified alien who entered the United States on or
37 after August 22, 1996, and is placed with an unqualified alien, the
38 child must meet the five-year residency requirement pursuant to
39 Section 673(a)(2)(B) of Title 42 of the United States Code, unless

1 the child is a member of one of the excepted groups pursuant to
2 Section 1612(b) of Title 8 of the United States Code.

3 (m) A child shall be eligible for Adoption Assistance Program
4 benefits if the following conditions are met:

5 (1) The child received Adoption Assistance Program benefits
6 with respect to a prior adoption and the child is again available for
7 adoption because the prior adoption was dissolved and the parental
8 rights of the adoptive parents were terminated or because the
9 child's adoptive parents died and the child meets the special needs
10 criteria described in subdivisions (a) to (c), inclusive.

11 (2) To receive federal funding, the citizenship requirements in
12 subdivision (l).

13 (n) (1) Except as provided in this subdivision, "applicable child"
14 means a child for whom an adoption assistance agreement is
15 entered into under this section during any federal fiscal year
16 described in this subdivision if the child attained the applicable
17 age for that federal fiscal year before the end of that federal fiscal
18 year.

19 (A) For federal fiscal year 2010, the applicable age is 16 years.

20 (B) For federal fiscal year 2011, the applicable age is 14 years.

21 (C) For federal fiscal year 2012, the applicable age is 12 years.

22 (D) For federal fiscal year 2013, the applicable age is 10 years.

23 (E) For federal fiscal year 2014, the applicable age is eight years.

24 (F) For federal fiscal year 2015, the applicable age is six years.

25 (G) For federal fiscal year 2016, the applicable age is four years.

26 (H) For federal fiscal year 2017, the applicable age is two years.

27 (I) For federal fiscal year 2018 and thereafter, any age.

28 (2) Beginning with the 2010 federal fiscal year, the term
29 "applicable child" shall include a child of any age on the date on
30 which an adoption assistance agreement is entered into on behalf
31 of the child under this section if the child meets both of the
32 following criteria:

33 (A) He or she has been in foster care under the responsibility
34 of the state for at least 60 consecutive months.

35 (B) He or she meets the requirements of subdivision (k).

36 (3) Beginning with the 2010 federal fiscal year, an applicable
37 child shall include a child of any age on the date that an adoption
38 assistance agreement is entered into on behalf of the child under
39 this section, without regard to whether the child is described in
40 paragraph (2), if the child meets all of the following criteria:

1 (A) He or she is a sibling of a child who is an applicable child
2 for the federal fiscal year, under subdivision (n) or paragraph (2).

3 (B) He or she is to be placed in the same adoption placement
4 as an applicable child for the federal fiscal year who is his or her
5 sibling.

6 (C) He or she meets the requirements of subdivision (k).

7 (o) This section shall become operative on January 1, 2014.

8 ~~SEC. 67:~~

9 *SEC. 77.* Section 16123 of the Welfare and Institutions Code
10 is amended to read:

11 16123. The provisions of Section 16120, permitting the
12 payment of adoption assistance until a child attains the age of 18
13 or 21 if the child has mental or physical handicaps, or effective
14 ~~October 1, 2010~~ *January 1, 2012*, up to 21 years of age, if the child
15 meets the criteria specified in paragraph (3) of subdivision (d) of
16 Section 16120, shall be effective as long as federal funds are
17 available under Title IV-E of the federal Social Security Act (Part
18 E (commencing with Section 670) of Subchapter 4 of Chapter 7
19 of Title 42 of the United States Code), and the state continues to
20 exercise its option to extend payments up to 21 years of age,
21 pursuant to Section 473(a)(4) of the federal Social Security Act
22 (42 U.S.C. Sec. 673(a)(4)). When those funds cease to be available,
23 the maximum length for payment of the Adoption Assistance
24 Program shall be five years except in instances in which there is
25 a continuing need, related to a chronic health condition of the child
26 which necessitated the initial financial assistance. In those cases,
27 a parent may, until October 1, 1992, petition the department or
28 licensed adoption agency to continue financial assistance up to
29 age of majority. On and after October 1, 1992, the parent may
30 petition the department or the responsible county to continue
31 financial assistance up to the age of majority.

32 ~~SEC. 68:~~

33 *SEC. 78.* Section 16501 of the Welfare and Institutions Code
34 is amended to read:

35 16501. (a) As used in this chapter, “child welfare services”
36 means public social services which are directed toward the
37 accomplishment of any or all *of* the following purposes: protecting
38 and promoting the welfare of all children, including handicapped,
39 homeless, dependent, or neglected children; preventing or
40 remedying, or assisting in the solution of problems which may

1 result in, the neglect, abuse, exploitation, or delinquency of
2 children; preventing the unnecessary separation of children from
3 their families by identifying family problems, assisting families
4 in resolving their problems, and preventing breakup of the family
5 where the prevention of child removal is desirable and possible;
6 restoring to their families children who have been removed, by
7 the provision of services to the child and the families; identifying
8 children to be placed in suitable adoptive homes, in cases where
9 restoration to the biological family is not possible or appropriate;
10 and ~~assuring~~ *ensuring* adequate care of children away from their
11 homes, in cases where the child cannot be returned home or cannot
12 be placed for adoption.

13 “Child welfare services” also means services provided on behalf
14 of children alleged to be the victims of child abuse, neglect, or
15 exploitation. The child welfare services provided on behalf of each
16 child represent a continuum of services, including emergency
17 response services, family preservation services, family maintenance
18 services, family reunification services, and permanent placement
19 services, including transitional independent living services. The
20 individual child’s case plan is the guiding principle in the provision
21 of these services. The case plan shall be developed within a
22 maximum of 60 days of the initial removal of the child or of the
23 in-person response required under subdivision (f) if the child has
24 not been removed from his or her home, or by the date of the
25 dispositional hearing pursuant to Section 358, whichever comes
26 first.

27 (1) Child welfare services may include, but are not limited to,
28 a range of service-funded activities, including case management,
29 counseling, emergency shelter care, emergency in-home caretakers,
30 temporary in-home caretakers, respite care, therapeutic day
31 services, teaching and demonstrating homemakers, parenting
32 training, substance abuse testing, and transportation. These
33 service-funded activities shall be available to children and their
34 families in all phases of the child welfare program in accordance
35 with the child’s case plan and departmental regulations. Funding
36 for services is limited to the amount appropriated in the annual
37 Budget Act and other available county funds.

38 (2) Service-funded activities to be provided may be determined
39 by each county, based upon individual child and family needs as
40 reflected in the service plan.

1 (3) As used in this chapter, “emergency shelter care” means
2 emergency shelter provided to children who have been removed
3 pursuant to Section 300 from their parent or parents or their
4 guardian or guardians. The department may establish, by
5 regulation, the time periods for which emergency shelter care shall
6 be funded. For the purposes of this paragraph, “emergency shelter
7 care” may include “transitional shelter care facilities” as defined
8 in paragraph (11) of subdivision (a) of Section 1502 of the Health
9 and Safety Code.

10 (b) As used in this chapter, “respite care” means temporary care
11 for periods not to exceed 72 hours. This care may be provided to
12 the child’s parents or guardians. This care shall not be limited by
13 regulation to care over 24 hours. These services shall not be
14 provided for the purpose of routine, ongoing child care.

15 (c) The county shall provide child welfare services as needed
16 pursuant to an approved service plan and in accordance with
17 regulations promulgated, in consultation with the counties, by the
18 department. Counties may contract for service-funded activities
19 as defined in paragraph (1) of subdivision (a). Each county shall
20 use available private child welfare resources prior to developing
21 new county-operated resources when the private child welfare
22 resources are of at least equal quality and lesser or equal cost as
23 compared with county-operated resources. Counties shall not
24 contract for needs assessment, client eligibility determination, or
25 any other activity as specified by regulations of the State
26 Department of Social Services, except as specifically authorized
27 in Section 16100.

28 (d) Nothing in this chapter shall be construed to affect duties
29 which are delegated to probation officers pursuant to Sections 601
30 and 654.

31 (e) Any county may utilize volunteer individuals to supplement
32 professional child welfare services by providing ancillary support
33 services in accordance with regulations adopted by the State
34 Department of Social Services.

35 (f) As used in this chapter, emergency response services consist
36 of a response system providing in-person response, 24 hours a day,
37 seven days a week, to reports of abuse, neglect, or exploitation, as
38 required by Article 2.5 (commencing with Section 11164) of
39 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of
40 investigation pursuant to Section 11166 of the Penal Code and to

1 determine the necessity for providing initial intake services and
2 crisis intervention to maintain the child safely in his or her own
3 home or to protect the safety of the child. County welfare
4 departments shall respond to any report of imminent danger to a
5 child immediately and all other reports within 10 calendar days.
6 An in-person response is not required when the county welfare
7 department, based upon an evaluation of risk, determines that an
8 in-person response is not appropriate. This evaluation includes
9 collateral, contacts, a review of previous referrals, and other
10 relevant information, as indicated.

11 (g) As used in this chapter, family maintenance services are
12 activities designed to provide in-home protective services to
13 prevent or remedy neglect, abuse, or exploitation, for the purposes
14 of preventing separation of children from their families.

15 (h) As used in this chapter, family reunification services are
16 activities designed to provide time-limited foster care services to
17 prevent or remedy neglect, abuse, or exploitation, when the child
18 cannot safely remain at home, and needs temporary foster care,
19 while services are provided to reunite the family.

20 (i) As used in this chapter, permanent placement services are
21 activities designed to provide an alternate permanent family
22 structure for children who because of abuse, neglect, or exploitation
23 cannot safely remain at home and who are unlikely to ever return
24 home. These services shall be provided on behalf of children for
25 whom there has been a judicial determination of a permanent plan
26 for adoption, legal guardianship, or long-term foster care, and, as
27 needed, shall include transitional independent living services.

28 (j) As used in this chapter, family preservation services include
29 those services specified in Section 16500.5 to avoid or limit
30 out-of-home placement of children, and may include those services
31 specified in that section to place children in the least restrictive
32 environment possible.

33 (k) (1) (A) In any county electing to implement this
34 subdivision, all county welfare department employees who have
35 frequent and routine contact with children shall, by February 1,
36 1997, and all welfare department employees who are expected to
37 have frequent and routine contact with children and who are hired
38 on or after January 1, 1996, and all such employees whose duties
39 change after January 1, 1996, to include frequent and routine
40 contact with children, shall, if the employees provide services to

1 children who are alleged victims of abuse, neglect, or exploitation,
2 sign a declaration under penalty of perjury regarding any prior
3 criminal conviction, and shall provide a set of fingerprints to the
4 county welfare director.

5 (B) The county welfare director shall secure from the
6 Department of Justice a criminal record to determine whether the
7 employee has ever been convicted of a crime other than a minor
8 traffic violation. The Department of Justice shall deliver the
9 criminal record to the county welfare director.

10 (C) If it is found that the employee has been convicted of a
11 crime, other than a minor traffic violation, the county welfare
12 director shall determine whether there is substantial and convincing
13 evidence to support a reasonable belief that the employee is of
14 good character so as to justify frequent and routine contact with
15 children.

16 (D) No exemption shall be granted pursuant to subparagraph
17 (C) if the person has been convicted of a sex offense against a
18 minor, or has been convicted of an offense specified in Section
19 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in
20 paragraph (1) of Section 273a of, or subdivision (a) or (b) of
21 Section 368 of, the Penal Code, or has been convicted of an offense
22 specified in subdivision (c) of Section 667.5 of the Penal Code.
23 The county welfare director shall suspend such a person from any
24 duties involving frequent and routine contact with children.

25 (E) Notwithstanding subparagraph (D), the county welfare
26 director may grant an exemption if the employee or prospective
27 employee, who was convicted of a crime against an individual
28 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5
29 of the Penal Code, has been rehabilitated as provided in Section
30 4852.03 of the Penal Code and has maintained the conduct required
31 in Section 4852.05 of the Penal Code for at least 10 years and has
32 the recommendation of the district attorney representing the
33 employee's or prospective employee's county of residence, or if
34 the employee or prospective employee has received a certificate
35 of rehabilitation pursuant to Chapter 3.5 (commencing with Section
36 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the
37 county welfare director may give the employee or prospective
38 employee an opportunity to explain the conviction and shall
39 consider that explanation in the evaluation of the criminal
40 conviction record.

1 (F) If no criminal record information has been recorded, the
2 county welfare director shall cause a statement of that fact to be
3 included in that person's personnel file.

4 (2) For purposes of this subdivision, a conviction means a plea
5 or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action which the county welfare director is
7 permitted to take following the establishment of a conviction may
8 be taken when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal or when an order granting
10 probation is made suspending the imposition of sentence,
11 notwithstanding a subsequent order pursuant to Sections 1203.4
12 and 1203.4a of the Penal Code permitting the person to withdraw
13 his or her plea of guilty and to enter a plea of not guilty, or setting
14 aside the verdict of guilty, or dismissing the accusation,
15 information, or indictment. For purposes of this subdivision, the
16 record of a conviction, or a copy thereof certified by the clerk of
17 the court or by a judge of the court in which the conviction
18 occurred, shall be conclusive evidence of the conviction.

19 ~~SEC. 69. Section 16501.1 of the Welfare and Institutions Code~~
20 ~~is amended to read:~~

21 ~~16501.1. (a) (1) The Legislature finds and declares that the~~
22 ~~foundation and central unifying tool in child welfare services is~~
23 ~~the case plan.~~

24 ~~(2) The Legislature further finds and declares that a case plan~~
25 ~~ensures that the child receives protection and safe and proper care~~
26 ~~and case management, and that services are provided to the child~~
27 ~~and parents or other caretakers, as appropriate, in order to improve~~
28 ~~conditions in the parent's home, to facilitate the safe return of the~~
29 ~~child to a safe home or the permanent placement of the child, and~~
30 ~~to address the needs of the child while in foster care.~~

31 ~~(b) (1) A case plan shall be based upon the principles of this~~
32 ~~section and shall document that a preplacement assessment of the~~
33 ~~service needs of the child and family, and preplacement preventive~~
34 ~~services, have been provided, and that reasonable efforts to prevent~~
35 ~~out-of-home placement have been made.~~

36 ~~(2) In determining the reasonable services to be offered or~~
37 ~~provided, the child's health and safety shall be the paramount~~
38 ~~concerns.~~

39 ~~(3) Reasonable services shall be offered or provided to make it~~
40 ~~possible for a child to return to a safe home environment, unless,~~

1 pursuant to subdivisions (b) and (c) of Section 361.5, the court
2 determines that reunification services shall not be provided.

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

7 ~~(e) (1) If out-of-home placement is used to attain case plan~~
8 ~~goals, the decision regarding choice of placement shall be based~~
9 ~~upon selection of a safe setting that is the least restrictive or most~~
10 ~~familylike and the most appropriate setting that is available and~~
11 ~~in close proximity to the parent's home, proximity to the child's~~
12 ~~school, consistent with the selection of the environment best suited~~
13 ~~to meet the child's special needs and best interests, or both. The~~
14 ~~selection shall consider, in order of priority, placement with~~
15 ~~relatives, tribal members, and foster family, group care, and~~
16 ~~residential treatment pursuant to Section 7950 of the Family Code.~~
17 ~~On or after October 1, 2010, for a nonminor dependent, as defined~~
18 ~~in subdivision (v) of Section 11400, who is receiving AFDC-FC~~
19 ~~benefits up to 21 years of age pursuant to Section 11403, in~~
20 ~~addition to the above requirements, the selection of the placement,~~
21 ~~including a supervised independent living setting, as described in~~
22 ~~Section 11400, shall also be based upon the developmental needs~~
23 ~~of young adults by providing opportunities to have incremental~~
24 ~~responsibilities that prepare a nonminor dependent to transition to~~
25 ~~independent living. When a nonminor dependent is placed in a~~
26 ~~group home, the case plan shall also specify why that placement~~
27 ~~is necessary for the nonminor dependent's transition to independent~~
28 ~~living.~~

29 ~~(2) In addition to the requirements of paragraph (1), and taking~~
30 ~~into account other statutory considerations regarding placement,~~
31 ~~the selection of the most appropriate home that will meet the child's~~
32 ~~special needs and best interests shall also promote educational~~
33 ~~stability by taking into consideration proximity to the child's school~~
34 ~~attendance area.~~

35 ~~(d) A written case plan shall be completed within a maximum~~
36 ~~of 60 days of the initial removal of the child or of the in-person~~
37 ~~response required under subdivision (f) of Section 16501 if the~~
38 ~~child has not been removed from his or her home, or by the date~~
39 ~~of the dispositional hearing pursuant to Section 358, whichever~~
40 ~~occurs first. The case plan shall be updated, as the service needs~~

1 of the child and family dictate. At a minimum, the case plan shall
2 be updated in conjunction with each status review hearing
3 conducted pursuant to Section 366.21, and the hearing conducted
4 pursuant to Section 366.26, but no less frequently than once every
5 six months. Each updated case plan shall include a description of
6 the services that have been provided to the child under the plan
7 and an evaluation of the appropriateness and effectiveness of those
8 services.

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

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

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

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

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

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

32 (3) The case plan shall identify the original allegations of abuse
33 or neglect, as defined in Article 2.5 (commencing with Section
34 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
35 conditions cited as the basis for declaring the child a dependent of
36 the court pursuant to Section 300, or all of these, and the other
37 precipitating incidents that led to child welfare services
38 intervention.

39 (4) The case plan shall include a description of the schedule of
40 the social worker contacts with the child and the family or other

1 caretakers. The frequency of these contacts shall be in accordance
2 with regulations adopted by the State Department of Social
3 Services. If the child has been placed in foster care out of state,
4 the county social worker or a social worker on the staff of the
5 social services agency in the state in which the child has been
6 placed shall visit the child in a foster family home or the home of
7 a relative, consistent with federal law and in accordance with the
8 department's approved state plan. For children in out-of-state group
9 home facilities, visits shall be conducted at least monthly, pursuant
10 to Section 16516.5. At least once every six months, at the time of
11 a regularly scheduled social worker contact with the foster child,
12 the child's social worker shall inform the child of his or her rights
13 as a foster child, as specified in Section 16001.9. The social worker
14 shall provide the information to the child in a manner appropriate
15 to the age or developmental level of the child.

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

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

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

1 (A) The death of an immediate relative.

2 (B) The birth of a sibling.

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

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

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

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

31 (9) If out-of-home services are used and the goal is reunification,
32 the case plan shall describe the services to be provided to assist in
33 reunification and the services to be provided concurrently to
34 achieve legal permanency if efforts to reunify fail. The plan shall
35 also consider in-state and out-of-state placements, the importance
36 of developing and maintaining sibling relationships pursuant to
37 Section 16002, and the desire and willingness of the caregiver to
38 provide legal permanency for the child if reunification is
39 unsuccessful.

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

11 (11) (A) Parents and legal guardians shall have an opportunity
12 to review the case plan, and to sign it whenever possible, and then
13 shall receive a copy of the plan. In any voluntary service or
14 placement agreement, the parents or legal guardians shall be
15 required to review and sign the case plan. Whenever possible,
16 parents and legal guardians shall participate in the development
17 of the case plan. Commencing October 1, 2010, for nonminor
18 dependents, as defined in subdivision (v) of Section 11400, who
19 are receiving AFDC-FC up to 21 years of age pursuant to Section
20 11403, the case plan shall be developed with, and signed by, the
21 nonminor.

22 (B) Parents and legal guardians shall be advised that, pursuant
23 to Section 1228.1 of the Evidence Code, neither their signature on
24 the child welfare services case plan nor their acceptance of any
25 services prescribed in the child welfare services case plan shall
26 constitute an admission of guilt or be used as evidence against the
27 parent or legal guardian in a court of law. However, they shall also
28 be advised that the parent's or guardian's failure to cooperate,
29 except for good cause, in the provision of services specified in the
30 child welfare services case plan may be used in any hearing held
31 pursuant to Section 366.21 or 366.22 as evidence.

32 (12) A child shall be given a meaningful opportunity to
33 participate in the development of the case plan and state his or her
34 preference for foster care placement. A child who is 12 years of
35 age or older and in a permanent placement shall also be given the
36 opportunity to review the case plan, sign the case plan, and receive
37 a copy of the case plan.

38 (13) The case plan shall be included in the court report and shall
39 be considered by the court at the initial hearing and each review
40 hearing. Modifications to the case plan made during the period

1 between review hearings need not be approved by the court if the
2 casework supervisor for that case determines that the modifications
3 further the goals of the plan. If out-of-home services are used with
4 the goal of family reunification, the case plan shall consider and
5 describe the application of subdivision (b) of Section 11203.

6 ~~(14) If the case plan has as its goal for the child a permanent
7 plan of adoption or placement in another permanent home, it shall
8 include a statement of the child's wishes regarding their permanent
9 placement plan and an assessment of those stated wishes. The
10 agency shall also include documentation of the steps the agency
11 is taking to find an adoptive family or other permanent living
12 arrangements for the child; to place the child with an adoptive
13 family, an appropriate and willing relative, a legal guardian, or in
14 another planned permanent living arrangement; and to finalize the
15 adoption or legal guardianship. At a minimum, the documentation
16 shall include child-specific recruitment efforts, such as the use of
17 state, regional, and national adoption exchanges, including
18 electronic exchange systems, when the child has been freed for
19 adoption.~~

20 ~~(15) When appropriate, for a child who is 16 years of age or
21 older and, commencing October 1, 2010, for a nonminor dependent,
22 the case plan shall include a written description of the programs
23 and services that will help the child, consistent with the child's
24 best interests, prepare for the transition from foster care to
25 independent living, and whether the youth has an in-progress
26 application pending for Title XVI Supplemental Security Income
27 benefits or for Special Juvenile Immigration Status or other
28 applicable application for legal residency and an active dependency
29 case is required for that application. When appropriate, for a
30 nonminor dependent, the case plan shall include a written
31 description of the program and services that will help the nonminor
32 dependent, consistent with the his or her best interests, to prepare
33 for transition from foster care and assist the youth in meeting the
34 eligibility criteria set forth in Section 11403. If applicable, the case
35 plan shall describe the individualized supervision provided in the
36 supervised independent living setting as defined, in subdivision
37 (w) of Section 11400. The case plan shall be developed with the
38 child or nonminor dependent and individuals identified as important
39 to the child, or nonminor dependent, and shall include steps the~~

1 agency is taking to ensure that the child or nonminor dependent
2 has a connection to a caring adult.

3 ~~(g) If the court finds, after considering the case plan, that~~
4 ~~unsupervised sibling visitation is appropriate and has been~~
5 ~~consented to, the court shall order that the child or the child's~~
6 ~~siblings, the child's current caregiver, and the child's prospective~~
7 ~~adoptive parents, if applicable, be provided with information~~
8 ~~necessary to accomplish this visitation. This section does not~~
9 ~~require or prohibit the social worker's facilitation, transportation,~~
10 ~~or supervision of visits between the child and his or her siblings.~~

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

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

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

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

39 ~~(l) The implementation and operation of the amendments to~~
40 ~~subdivision (i) enacted at the 2005-06 Regular Session shall be~~

1 subject to appropriation through the budget process and by phase,
2 as provided in Section 366.35.

3 *SEC. 79. Section 16501.1 of the Welfare and Institutions Code*
4 *is amended to read:*

5 16501.1. (a) (1) The Legislature finds and declares that the
6 foundation and central unifying tool in child welfare services is
7 the case plan.

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

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

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

23 (3) (A) In determining the reasonable services to be offered or
24 provided, the case plan shall include information, to the extent
25 possible, about a parent's incarceration in a county jail or the state
26 prison during the time that a minor child of that parent is involved
27 in dependency care. Once a consistent data entry field or fields
28 have been designated in the statewide child welfare database, social
29 workers shall make reasonable efforts to collect and update
30 necessary data regarding a child's incarcerated parent or parents.

31 (B) In order to further the goals of this paragraph, the Legislature
32 encourages the State Department of Social Services to consult with
33 the county welfare directors regarding the best way to incorporate
34 the information specified in subparagraph (A) as a required field
35 in the statewide database. The Legislature also encourages the
36 Department of Justice, the Department of Corrections and
37 Rehabilitation, county welfare departments, and county sheriffs
38 to develop protocols for facilitating the exchange of information
39 regarding the location and sentencing of the incarcerated parent
40 or parents of a minor child who is in dependency care.

1 (C) Nothing in this paragraph shall be interpreted to require the
2 department to create a new dedicated field in the statewide database
3 for incorporating the information specified in subparagraph (A).

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

8 (5) If reasonable services are not ordered, or are terminated,
9 reasonable efforts shall be made to place the child in a timely
10 manner in accordance with the permanent plan and to complete
11 all steps necessary to finalize the permanent placement of the child.

12 (c) (1) If out-of-home placement is used to attain case plan
13 goals, the decision regarding choice of placement shall be based
14 upon selection of a safe setting that is the least restrictive or most
15 familylike and the most appropriate setting that is available and
16 in close proximity to the parent's home, proximity to the child's
17 school, consistent with the selection of the environment best suited
18 to meet the child's special needs and best interests, or both. The
19 selection shall consider, in order of priority, placement with
20 relatives, tribal members, and foster family, group care, and
21 residential treatment pursuant to Section 7950 of the Family Code.
22 *On or after January 1, 2011, for a nonminor dependent, as defined*
23 *in subdivision (v) of Section 11400, who is receiving AFDC-FC*
24 *benefits up to 21 years of age pursuant to Section 11403, in*
25 *addition to the above requirements, the selection of the placement,*
26 *including a supervised independent living setting, as described in*
27 *Section 11400, shall also be based upon the developmental needs*
28 *of young adults by providing opportunities to have incremental*
29 *responsibilities that prepare a nonminor dependent to transition*
30 *to independent living. When a nonminor dependent is placed in a*
31 *group home, the case plan shall also specify why that placement*
32 *is necessary for the nonminor dependent's transition to independent*
33 *living.*

34 (2) In addition to the requirements of paragraph (1), and taking
35 into account other statutory considerations regarding placement,
36 the selection of the most appropriate home that will meet the child's
37 special needs and best interests shall also promote educational
38 stability by taking into consideration proximity to the child's school
39 attendance area.

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

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

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

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

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

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

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

38 (3) The case plan shall identify the original allegations of abuse
39 or neglect, as defined in Article 2.5 (commencing with Section
40 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the

1 conditions cited as the basis for declaring the child a dependent of
2 the court pursuant to Section 300, or all of these, and the other
3 precipitating incidents that led to child welfare services
4 intervention.

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

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

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

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

1 case to keep siblings informed of significant life events that occur
2 within the extended family, the social worker shall determine the
3 appropriate means and setting for disclosure of this information
4 to the child commensurate with the child's age and emotional
5 well-being. These significant life events shall include, but shall
6 not be limited to, the following:

7 (A) The death of an immediate relative.

8 (B) The birth of a sibling.

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

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

22 (8) Effective January 1, 2010, a case plan shall ensure the
23 educational stability of the child while in foster care and shall
24 include both of the following:

25 (A) An assurance that the placement takes into account the
26 appropriateness of the current educational setting and the proximity
27 to the school in which the child is enrolled at the time of placement.

28 (B) An assurance that the placement agency has coordinated
29 with appropriate local educational agencies to ensure that the child
30 remains in the school in which the child is enrolled at the time of
31 placement, or, if remaining in that school is not in the best interests
32 of the child, assurances by the placement agency and the local
33 educational agency to provide immediate and appropriate
34 enrollment in a new school and to provide all of the child's
35 educational records to the new school.

36 (9) (A) If out-of-home services are used, or if parental rights
37 have been terminated and the case plan is placement for adoption,
38 the case plan shall include a recommendation regarding the
39 appropriateness of unsupervised visitation between the child and
40 any of the child's siblings. This recommendation shall include a

1 statement regarding the child's and the siblings' willingness to
2 participate in unsupervised visitation. If the case plan includes a
3 recommendation for unsupervised sibling visitation, the plan shall
4 also note that information necessary to accomplish this visitation
5 has been provided to the child or to the child's siblings.

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

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

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

30 (12) (A) Parents and legal guardians shall have an opportunity
31 to review the case plan, and to sign it whenever possible, and then
32 shall receive a copy of the plan. In any voluntary service or
33 placement agreement, the parents or legal guardians shall be
34 required to review and sign the case plan. Whenever possible,
35 parents and legal guardians shall participate in the development
36 of the case plan. *Commencing January 1, 2012, for nonminor*
37 *dependents, as defined in subdivision (v) of Section 11400, who*
38 *are receiving AFDC-FC up to 21 years of age pursuant to Section*
39 *11403, the case plan shall be developed with, and signed by, the*
40 *nonminor.*

1 (B) Parents and legal guardians shall be advised that, pursuant
2 to Section 1228.1 of the Evidence Code, neither their signature on
3 the child welfare services case plan nor their acceptance of any
4 services prescribed in the child welfare services case plan shall
5 constitute an admission of guilt or be used as evidence against the
6 parent or legal guardian in a court of law. However, they shall also
7 be advised that the parent's or guardian's failure to cooperate,
8 except for good cause, in the provision of services specified in the
9 child welfare services case plan may be used in any hearing held
10 pursuant to Section 366.21 or 366.22 as evidence.

11 (13) A child shall be given a meaningful opportunity to
12 participate in the development of the case plan and state his or her
13 preference for foster care placement. A child who is 12 years of
14 age or older and in a permanent placement shall also be given the
15 opportunity to review the case plan, sign the case plan, and receive
16 a copy of the case plan.

17 (14) The case plan shall be included in the court report and shall
18 be considered by the court at the initial hearing and each review
19 hearing. Modifications to the case plan made during the period
20 between review hearings need not be approved by the court if the
21 casework supervisor for that case determines that the modifications
22 further the goals of the plan. If out-of-home services are used with
23 the goal of family reunification, the case plan shall consider and
24 describe the application of subdivision (b) of Section 11203.

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

39 (16) (A) When appropriate, for a child who is 16 years of age
40 or older *and, commencing January 1, 2012, for a nonminor*

1 *dependent*, the case plan shall include a written description of the
2 programs and services that will help the child, consistent with the
3 child’s best interests, prepare for the transition from foster care to
4 independent living, *and whether the youth has an in-progress*
5 *application pending for Title XVI Supplemental Security Income*
6 *benefits or for Special Juvenile Immigration Status or other*
7 *applicable application for legal residency and an active*
8 *dependency case is required for that application. When*
9 *appropriate, for a nonminor dependent, the case plan shall include*
10 *a written description of the program and services that will help*
11 *the nonminor dependent, consistent with his or her best interests,*
12 *to prepare for transition from foster care and assist the youth in*
13 *meeting the eligibility criteria set forth in Section 11403. If*
14 *applicable, the case plan shall describe the individualized*
15 *supervision provided in the supervised independent living setting*
16 *as defined, in subdivision (w) of Section 11400. The case plan shall*
17 *be developed with the child or nonminor dependent and individuals*
18 *identified as important to the child, and shall include steps the*
19 *agency is taking to ensure that the child or nonminor dependent*
20 *has a connection to a caring adult.*

21 (B) During the 90-day period prior to the participant attaining
22 18 years of age or older as the state may elect under Section
23 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social
24 Security Act, whether during that period foster care maintenance
25 payments are being made on the child’s behalf or the child is
26 receiving benefits or services under Section 477 (42 U.S.C. Sec.
27 677) of the federal Social Security Act, a caseworker or other
28 appropriate agency staff or probation officer and other
29 representatives of the participant, as appropriate, must address, in
30 the written transitional independent living plan, that is personalized
31 at the direction of the child, information as detailed as the
32 participant elects that shall include, but not be limited to, options
33 regarding housing, health insurance, education, local opportunities
34 for mentors and continuing support services, and workforce
35 supports and employment services.

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

1 necessary to accomplish this visitation. This section does not
2 require or prohibit the social worker's facilitation, transportation,
3 or supervision of visits between the child and his or her siblings.

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

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

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

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

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

36 ~~SEC. 70.~~

37 *SEC. 80.* Section 16501.25 of the Welfare and Institutions
38 Code is amended to read:

39 16501.25. (a) For the purposes of this section, "teen parent"
40 means a child who has been adjudged to be a dependent child or

1 ward of the court on the grounds that he or she is a person described
2 under Section 300 or ~~Section~~ 602, or a ward of a nonrelated legal
3 guardian whose guardianship was established pursuant to Section
4 ~~366.26 or 360 360 or 366.26~~, living in out-of-home placement in
5 a whole family foster home, as defined in subdivision (u) of Section
6 11400, who is a parent. Commencing ~~October 1, 2010~~ *January 1,*
7 *2012*, “teen parent” also means a nonminor dependent, as defined
8 in subdivision (v) of Section 11400, who is living in a whole family
9 foster home, as defined in subdivision (t) of Section 11400, and
10 is eligible for AFDC-FC or Kin-GAP payments pursuant to Section
11 11403 or 11403.01.

12 (b) (1) When the child of a teen parent is not subject to the
13 jurisdiction of the dependency court but is in the full or partial
14 physical custody of the teen parent, a written shared responsibility
15 plan shall be developed. The plan shall be developed between the
16 teen parent, caregiver, and a representative of the county child
17 welfare agency or probation department, and in the case of a
18 certified home, a representative of the agency providing direct and
19 immediate supervision to the caregiver. Additional input may be
20 provided by any individuals identified by the teen parent, the other
21 parent of the child, if appropriate, and other extended family
22 members. The plan shall be developed as soon as is practicably
23 possible. However, if one or more of the above stakeholders are
24 not available to participate in the creation of the plan within the
25 first 30 days of the teen parent’s placement, the teen parent and
26 caregiver may enter into a plan for the purposes of fulfilling the
27 requirements of paragraph (2) of subdivision (d) of Section 11465,
28 which may be modified at a later time when the other individuals
29 become available.

30 (2) The plan shall be designed to preserve and strengthen the
31 teen parent family unit, as described in Section 16002.5, to assist
32 the teen parent in meeting the goals outlined in Section 16002.5,
33 to facilitate a supportive home environment for the teen parent and
34 the child, and to ultimately enable the teen parent to independently
35 provide a safe, stable, and permanent home for the child. The plan
36 shall in no way limit the teen parent’s legal right to make decisions
37 regarding the care, custody, and control of the child.

38 (3) The plan shall be written for the express purpose of aiding
39 the teen parent and the caregiver to reach agreements aimed at
40 reducing conflict and misunderstandings. The plan shall outline,

1 with as much specificity as is practicable, the duties, rights, and
2 responsibilities of both the teen parent and the caregiver with regard
3 to the child, and identify supportive services to be offered to the
4 teen parent by the caregiver or, in the case of a certified home, the
5 agency providing direct and immediate supervision to the caregiver,
6 or both. The plan shall be updated, as needed, to account for the
7 changing needs of infants and toddlers, and in accordance with
8 the teen parent's changing school, employment, or other outside
9 responsibilities. The plan shall not conflict with the teen parent's
10 case plan. Areas to be addressed by the plan include, but are not
11 limited to, all of the following:

12 (A) Feeding.

13 (B) Clothing.

14 (C) Hygiene.

15 (D) Purchase of necessary items, including, but not limited to,
16 safety items, food, clothing, and developmentally appropriate toys
17 and books. This includes both one-time purchases and items needed
18 on an ongoing basis.

19 (E) Health care.

20 (F) Transportation to health care appointments, child care, and
21 school, as appropriate.

22 (G) Provision of child care and babysitting.

23 (H) Discipline.

24 (I) Sleeping arrangements.

25 (J) Visits among the child, his or her noncustodial parent, and
26 other appropriate family members, including the responsibilities
27 of the teen parent, the caregiver, and the foster family agency, as
28 appropriate, for facilitating the visitation. The shared responsibility
29 plan shall not conflict with the teen parent's case plan and any
30 visitation orders made by the court.

31 (c) Upon completion of the shared responsibility plan and any
32 subsequent updates to the plan, a copy shall be provided to the
33 teen parent and his or her attorney, the caregiver, the county child
34 welfare agency or probation department and, in the case of a
35 certified home, the agency providing direct and immediate
36 supervision to the caregiver.

37 (d) The shared responsibility plan requirements shall no longer
38 apply when the two ~~hundred dollar~~ *hundred-dollar* (\$200) monthly
39 payment is made under the Kin-GAP program pursuant to Article
40 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 to a

1 former whole family foster home pursuant to subdivision (a) of
2 Section 11465.

3 ~~SEC. 71.~~

4 *SEC. 81.* Section 16503 of the Welfare and Institutions Code
5 is amended to read:

6 16503. (a) Subsequent to completion of the hearing conducted
7 pursuant to Section 366.26, the agency responsible for placement
8 and care of a minor, as defined in subdivision (k) of Section 11400,
9 shall ensure that a child in foster care shall receive administrative
10 reviews periodically but no less frequently than once every six
11 months. The administrative review shall determine the
12 appropriateness of the placement, the continuing appropriateness
13 and extent of compliance with the permanent plan for the child,
14 the extent of compliance with the case plan, and adequacy of
15 services provided to the child.

16 (b) The term “administrative review” means a review open to
17 the participation of the parents of a child in foster care conducted
18 by a panel of appropriate persons at least one of whom is not
19 responsible for the case management of, or the delivery of services
20 to, either the child or the parents who are the subject of the review.

21 (c) The department shall develop and implement regulations
22 establishing processes, procedures, and standards for the conduct
23 of administrative reviews that conform to Section 675.6 of Title
24 42 of the United States Code.

25 (d) The requirements of this section shall not be interpreted as
26 requiring duplicate concurrent court and administrative reviews.

27 ~~SEC. 72.~~

28 *SEC. 82.* Section 16507.3 of the Welfare and Institutions Code
29 is amended to read:

30 16507.3. (a) Beginning on October 1, 1982, child welfare
31 services for children placed voluntarily after January 1, 1982, shall
32 be limited to a period not to exceed 180 days. Subject to the
33 availability of federal funding, voluntary placement services for
34 federally eligible children may be extended for an additional six
35 months, for a total period not to exceed 12 months for either of
36 the following:

37 (1) Families who have a custodial parent or guardian in
38 residential substance abuse treatment who is demonstrating
39 progress that indicates the problems warranting the initial
40 placement are likely to be resolved within the extended time period.

1 (2) Families whose minor child is seriously emotionally
2 disturbed, who requires placement in a residential treatment facility,
3 who otherwise would be likely to be found to fit the description
4 in subdivision (c) of Section 300, and who reasonably may be
5 expected to be returned home within the extended time period.

6 (b) Whenever a seriously emotionally disturbed child as
7 described in paragraph (2) of subdivision (a) is initially voluntarily
8 placed, the initial placement shall be made pursuant to the approval
9 of an interagency administrative review board as described in
10 paragraph (4) of subdivision (a) of Section 16507.6.

11 (c) The extension of voluntary placement services for an
12 additional six months shall be subject to the approval of an
13 administrative review board pursuant to paragraphs (4) and (5) of
14 subdivision (a) of Section 16507.6. The extension of voluntary
15 placement services is contingent upon the receipt of federal
16 funding. Any administrative and foster care costs that exceed the
17 amount of federal reimbursement shall be paid solely with county
18 funds.

19 (d) An otherwise eligible child placed voluntarily prior to
20 January 1, 1982, may remain eligible for child welfare services
21 without regard to the length of time in placement until April 1,
22 1984. Beginning on October 1, 1982, such a child shall receive
23 administrative review pursuant to the requirements of Section
24 16503.

25 ~~SEC. 73.~~

26 *SEC. 83.* Section 16507.4 of the Welfare and Institutions Code
27 is amended to read:

28 16507.4. (a) Notwithstanding any other provisions of this
29 chapter, voluntary family reunification services shall be provided
30 without fee to families who qualify, or would qualify if application
31 had been made therefor, as recipients of public assistance under
32 the Aid to Families with Dependent Children program as described
33 in the State Plan in effect on July 1, 1996. If the family is not
34 qualified for aid, voluntary family reunification services may be
35 utilized, provided that the county seeks reimbursement from the
36 parent or guardian on a statewide sliding scale according to income
37 as determined by the State Department of Social Services and
38 approved by the Department of Finance. The fee may be waived
39 if the social worker determines that the payment of the fee may

1 be a barrier to reunification. Section 17552 of the Family Code
2 shall also apply.

3 (b) An out-of-home placement of a minor without adjudication
4 by the juvenile court may occur only when all of the following
5 conditions exist:

6 (1) There is a mutual decision between the child's parent or
7 guardian and the county welfare department in accordance with
8 regulations promulgated by the State Department of Social
9 Services.

10 (2) There is a written agreement between the county welfare
11 department and the parent or guardian specifying the terms of the
12 voluntary placement. The State Department of Social Services
13 shall develop a form for voluntary placement agreements which
14 shall be used by all counties. The form shall indicate that foster
15 care under the Aid to Families with Dependent Children program
16 is available to those children.

17 (3) In the case of an Indian child, in accordance with Section
18 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et
19 seq.), the following criteria are met:

20 (A) The parent or Indian custodian's consent to the voluntary
21 out-of-home placement is executed in writing at least 10 days after
22 the child's birth and recorded before a judge.

23 (B) The judge certifies that the terms and consequences of the
24 consent were fully explained in detail in English and were fully
25 understood by the parent or that they were interpreted into a
26 language that the parent understood.

27 (C) A parent of an Indian child may withdraw his or her consent
28 for any reason at any time and the child shall be returned to the
29 parent.

30 (c) In the case of a voluntary placement pending relinquishment,
31 a county welfare department shall have the option of delegating
32 to a licensed private adoption agency the responsibility for
33 placement by the county welfare department. If such a delegation
34 occurs, the voluntary placement agreement shall be signed by the
35 county welfare department, the child's parent or guardian, and the
36 licensed private adoption agency.

37 (d) The State Department of Social Services shall amend its
38 plan pursuant to Part E (commencing with Section 670) of
39 Subchapter IV of Chapter 7 of Title 42 of the United States Code
40 in order to conform to mandates of Public Law 96-272 and Public

1 Law 110-351 for federal financial participation in voluntary
2 placements.

3 ~~SEC. 74.~~

4 *SEC. 84.* Section 16507.6 of the Welfare and Institutions Code
5 is amended to read:

6 16507.6. If a minor has been voluntarily placed with the county
7 welfare department subsequent to January 1, 1982, for out-of-home
8 placement by his or her parents or guardians pursuant to this
9 chapter and the minor has remained out of their physical custody
10 for a consecutive period not to exceed 180 days, the department
11 shall do one of the following:

12 (a) Return the minor to the physical custody of his or her parents
13 or guardians.

14 (b) Refer the minor to a licensed adoption agency for
15 consideration of adoptive planning and receipt of a permanent
16 relinquishment of care and custody rights from the parents pursuant
17 to Section 8700 of the Family Code.

18 (c) Apply for a petition pursuant to Section 332 and file the
19 petition with the juvenile court to have the minor declared a
20 dependent child of the court under Section 300.

21 (d) Apply for a petition pursuant to Section 332 and file a
22 petition with the juvenile court under subdivision (k) of Section
23 300 to have a guardianship with an approved relative ordered
24 pursuant to Section 360 if the child otherwise meets the conditions
25 for federally funded Kin-GAP as provided for in Article 4.7
26 (commencing with Section 11385) of Chapter 2. The nonfederally
27 eligible child so placed with an approved relative caregiver shall
28 be eligible for aid under the state-funded Kin-GAP Program, as
29 provided for in Article 4.5 (commencing with Section 11360) of
30 Chapter 2.

31 (e) Refer the minor placed pursuant to paragraph (2) of
32 subdivision (a) of Section 16507.3 to an interagency administrative
33 review board as may be required in federal regulations. One
34 member of the board shall be a licensed mental health practitioner.
35 The review board shall review the appropriateness and continued
36 necessity of six additional months of voluntary placement, the
37 extent of the compliance with the voluntary placement plan, and
38 the adequacy of services to the family and child. If the minor
39 cannot be returned home by the 12th month of voluntary placement

1 services, the department shall proceed pursuant to subdivisions
2 (b), (c), or (d).

3 (f) Refer the minor placed pursuant to paragraph (1) of
4 subdivision (a) of Section 16507.3 to an administrative review
5 board as may be required in federal regulations and as described
6 in subdivision (b) of Section 16503. If the minor cannot be returned
7 home by the 12th month of voluntary placement services, the
8 department shall proceed as described in paragraph subdivisions
9 (b), (c), or (d).

10 ~~SEC. 75. Section 16508 of the Welfare and Institutions Code~~
11 ~~is amended to read:~~

12 ~~16508. Permanent placement services shall be provided or~~
13 ~~arranged for by county welfare department staff for children who~~
14 ~~cannot safely live with their parents and are not likely to return to~~
15 ~~their own homes. Permanent placement services shall be available~~
16 ~~without regard to income to the following children:~~

17 ~~(a) Children judged dependent under Section 300 where a review~~
18 ~~has determined that reunification, adoption, or guardianship is~~
19 ~~inappropriate.~~

20 ~~(b) Recipients of public assistance under the nonfederally funded~~
21 ~~Aid to Families with Dependent Children Foster Care program~~
22 ~~who are wards of a legal guardian pursuant to Section 11405, where~~
23 ~~a review has determined that reunification or adoption is~~
24 ~~inappropriate.~~

25 ~~(c) Nonminor dependents, as defined in subdivision (v) of~~
26 ~~Section 11400, who are receiving AFDC-FC pursuant to Section~~
27 ~~11403.~~

28 *SEC. 85. Section 16508 of the Welfare and Institutions Code,*
29 *as amended by Section 21 of Chapter 287 of the Statutes of 2009,*
30 *is amended to read:*

31 16508. Permanent placement services shall be provided or
32 arranged for by county welfare department staff for children who
33 cannot safely live with their parents and are not likely to return to
34 their own homes. Permanent placement services shall be available
35 without regard to income to the following children:

36 (a) Children judged dependent under Section 300 where a review
37 has determined that reunification, adoption, tribal customary
38 adoption, or guardianship is inappropriate.

39 (b) Recipients of public assistance under *the* nonfederally funded
40 Aid to Families with Dependent Children ~~programs~~ *Foster Care*

1 *program* who are wards of a legal guardian *pursuant to Section*
 2 *11405*, where a review has determined that reunification or
 3 adoption is inappropriate.

4 (c) *Nonminor dependents, as defined in subdivision (v) of Section*
 5 *11400, who are receiving AFDC-FC pursuant to Section 11403.*

6 (e)

7 (d) This section shall remain in effect only until January 1, 2014,
 8 and as of that date is repealed, unless a later enacted statute, that
 9 is enacted before January 1, 2014, deletes or extends that date.

10 *SEC. 86. Section 16508 of the Welfare and Institutions Code,*
 11 *as added by Section 22 of Chapter 287 of the Statutes of 2009, is*
 12 *amended to read:*

13 16508. Permanent placement services shall be provided or
 14 arranged for by county welfare department staff for children who
 15 cannot safely live with their parents and are not likely to return to
 16 their own homes. Permanent placement services shall be available
 17 without regard to income to the following children:

18 (a) Children judged dependent under Section 300 where a review
 19 has determined that reunification, adoption, or guardianship is
 20 inappropriate.

21 (b) Recipients of public assistance under *the* nonfederally funded
 22 Aid to Families with Dependent Children ~~programs~~ *Foster Care*
 23 *program* who are wards of a legal guardian *pursuant to Section*
 24 *11405*, where a review has determined that reunification or
 25 adoption is inappropriate.

26 (c) *Nonminor dependents, as defined in subdivision (v) of Section*
 27 *11400, who are receiving AFDC-FC pursuant to Section 11403.*

28 (e)

29 (d) This section shall become operative on January 1, 2014.

30 ~~SEC. 76.~~

31 *SEC. 87.* No appropriation pursuant to Section 15200 of the
 32 Welfare and Institutions Code shall be made for the purpose of
 33 implementing this act.

34 ~~SEC. 77.~~

35 *SEC. 88.* No reimbursement is required by this act pursuant to
 36 Section 6 of Article XIII B of the California Constitution for certain
 37 costs that may be incurred by a local agency or school district
 38 because, in that regard, this act creates a new crime or infraction,
 39 eliminates a crime or infraction, or changes the penalty for a crime
 40 or infraction, within the meaning of Section 17556 of the

1 Government Code, or changes the definition of a crime within the
2 meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 However, if the Commission on State Mandates determines that
5 this act contains other costs mandated by the state, reimbursement
6 to local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

9

10

11 **CORRECTIONS:**

12 **Text—Pages 12, 15, 160, 161, 164, 167, 178, 179, 190, 199, 223, 233, 237, 238.**

13

O