

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN SENATE MAY 12, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 597

Introduced by Senator Liu

February 27, 2009

An act to amend Section 8545 of the Family Code, *to amend Section 1506 of the Health and Safety Code*, and to amend Sections ~~4094, 11460, 366.21, 4094, 11462~~, 16119, 16120.1, 16121, 16121.05, and 16501.1 of, and to add Section 16010.2 to, the Welfare and Institutions Code, relating to services for children.

LEGISLATIVE COUNSEL'S DIGEST

SB 597, as amended, Liu. Child welfare services, foster care services, and adoption assistance.

(1) Existing law requires the State Department of Mental Health to establish, by regulations, no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. Under existing law, until January 1, 2010, the department shall not require a community treatment facility that meets certain requirements to have 24-hour onsite licensed nursing staff.

This bill would extend applicability of the above provisions relating to onsite licensed nursing staff, to January 1, 2013.

(2) *Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of foster family agencies, as defined, by the State Department of Social Services, including applicable personnel requirements. Violation of these provisions is a misdemeanor.*

This bill would require a foster family agency that provides treatment of children in foster families to employ one full-time social work supervisor for every eight social workers, or fraction thereof, in the agency. The bill would require the implementation of this provision to cease on and after January 1, 2011, without the enactment of subsequent statutory authorization.

By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(3) Existing law requires the juvenile court to conduct a hearing for the initial disposition of a dependent child of the court, and subsequent hearings to review the status of the child, as specified.

Existing law specifies the circumstances under which the court may schedule a hearing to terminate parental rights or take other specified actions with respect to placement of a child who was under 3 years of age on the date of initial removal or is a member of a sibling group, as specified.

This bill would require the court, in determining whether to schedule the hearing described above for such a child, to take into account barriers to a parent's ability to remain in contact with his or her child due to the parent's incarceration or institutionalization.

~~(2)~~

(4) 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. Moneys from the General Fund are continuously appropriated to pay for the state's share of AFDC-FC costs.

~~Existing law requires foster care providers to be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them, and defines the term "care and supervision" for this purpose.~~

~~This bill would expand the definition of "care and supervision" to include costs for reasonable travel for the child to remain in the school in which he or she is enrolled at the time of placement.~~

Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates.

An adjusted schedule of rates is applicable to group home programs that receive AFDC-FC payments for services performed during the 2002–03 to 2009–10, inclusive, fiscal years.

This bill would revise RCL point ranges for group home programs that receive AFDC-FC payments for services performed during the 2009–10 fiscal year and subsequent fiscal years, as specified. The bill would require the implementation of the revised point ranges to cease on and after January 1, 2011, without the enactment of subsequent statutory authorization. This bill would provide that no appropriation is made pursuant to the bill for purpose of these provisions.

~~(3)~~

(5) Under existing law, the case plan is the foundation and central unifying tool in child welfare services. The components of the case plan include, when appropriate, a written description of the programs and services that will help a child, consistent with the child’s best interests, prepare for the transition from foster care to independent living, for a child who is 16 years of age or older.

Existing law requires, when a child is placed in foster care, that the child’s case plan include a summary of the health and education information or records, including mental health information or records, of the child.

This bill would require the State Department of Social Services, in consultation with pediatricians, health care experts, and experts in and recipients of child welfare services, to develop a plan for the ongoing oversight and coordination of health care services for a child in a foster care placement, consistent with the federal act.

~~(4)~~

(6) 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.

Under existing law, at the time application for adoption of a child who is potentially eligible for AAP benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department or the licensed adoption agency, whichever is appropriate,

is required to provide the prospective adoptive family with designated information.

This bill would additionally require the department or licensed adoption agency to provide information regarding the federal adoption tax credit for any individual who is adopting or considering adopting a child in foster care, in accordance with the federal act.

Existing law relating to adoption defines a special needs child as a child whose adoption without financial assistance would be unlikely because of specified characteristics or circumstances of the child.

This bill would recast and revise the definition of a special needs child, and further would require the need for adoption subsidy to be evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, except under specified circumstances. The bill would make related changes to existing adoption assistance provisions.

~~(5)~~

(7) Under existing law, the state, through the State Department of Social Services and county welfare departments, is required to establish and support a public system of statewide child welfare services.

Existing law requires the case plan for a child 16 years of age or older to include a written description of the programs and services that will help the child prepare for the transition from foster care to independent living, as specified.

This bill would require additional information pertaining to the child's transition to independent living to be provided in the 90-day period before the child attains 18 years of age, relating to, among other topics, housing, education, and employment services. By imposing additional duties upon each county, the bill would create a state-mandated local program.

~~(6)(a)~~

(8) (A) This bill would incorporate additional changes in Section 16119 of the Welfare and Institutions Code, proposed by AB 154, to be operative only if AB 154 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

~~(b)~~

(B) This bill would incorporate additional changes in Section 16501.1 of the Welfare and Institutions Code, proposed by SB 118, to be operative only if SB 118 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

~~(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

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

(9) 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. Section 8545 of the Family Code is amended to
2 read:

3 8545. "Special needs child" means a child for whom all of the
4 following are true:

5 (a) It has been determined that the child cannot or should not
6 be returned to the home of his or her parents, as evidenced by a
7 petition for termination of parental rights, a court order terminating
8 parental rights, or a signed relinquishment.

9 (b) The child has at least one of the following characteristics
10 that is a barrier to his or her adoption:

11 (1) Adoptive placement without financial assistance is unlikely
12 because of membership in a sibling group that should remain intact,
13 or by virtue of race, ethnicity, color, language, age of three years
14 or older, or parental background of a medical or behavioral nature
15 that can be determined to adversely affect the development of the
16 child.

17 (2) Adoptive placement without financial assistance is unlikely
18 because the child has a mental, physical, emotional, or medical

1 disability that has been certified by a licensed professional
2 competent to make an assessment and operating within the scope
3 of his or her profession. This paragraph shall also apply to children
4 with a developmental disability as defined in subdivision (a) of
5 Section 4512 *of the Welfare and Institutions Code*, including those
6 determined to require out-of-home nonmedical care as described
7 in Section 11464 *of the Welfare and Institutions Code*.

8 (c) The need for adoption subsidy is evidenced by an
9 unsuccessful search for an adoptive home to take the child without
10 financial assistance, as documented in the case file of the
11 prospective adoptive child. The requirement for this search shall
12 be waived when it would be against the best interest of the child
13 because of the existence of significant emotional ties with
14 prospective adoptive parents while in the care of these persons as
15 a foster child.

16 *SEC. 2. Section 1506 of the Health and Safety Code is amended*
17 *to read:*

18 1506. (a) (1) Any holder of a valid license issued by the
19 department that authorizes the licensee to engage in any foster
20 family agency functions, may use only a certified family home
21 that has been certified by that agency or a licensed foster family
22 home approved for this use by the licensing county pursuant to
23 Section 1506.5.

24 (2) Any home selected and certified for the reception and care
25 of children by that licensee shall not, during the time it is certified
26 and used only by that agency for these placements or care, be
27 subject to Section 1508. A certified family home may not be
28 concurrently licensed as a foster family home or as any other
29 licensed residential facility.

30 (3) A child with a developmental disability who is placed in a
31 certified family home by a foster family agency that is operating
32 under agreement with the regional center responsible for that child
33 may remain in the certified family home after the age of 18 years.
34 The determination regarding whether and how long he or she may
35 remain as a resident after the age of 18 years shall be made through
36 the agreement of all parties involved, including the resident, the
37 foster parent, the foster family agency social worker, the resident's
38 regional center case manager, and the resident's parent, legal
39 guardian, or conservator, as appropriate. This determination shall
40 include a needs and service plan that contains an assessment of

1 the child’s needs to ensure continued compatibility with the other
2 children in placement. The needs and service plan shall be
3 completed no more than six months prior to the child’s eighteenth
4 birthday. The assessment shall be documented and maintained in
5 the child’s file with the foster family agency.

6 (b) (1) A foster family agency shall certify to the department
7 that the home has met the department’s licensing standards. A
8 foster family agency may require a family home to meet additional
9 standards or be compatible with its treatment approach.

10 (2) The foster family agency shall issue a certificate of approval
11 to the certified family home upon its determination that it has met
12 the standards established by the department and before the
13 placement of any child in the home. The certificate shall be valid
14 for a period not to exceed one year. The annual recertification shall
15 require a certified family home to complete at least 12 hours of
16 structured applicable training or continuing education. At least
17 one hour of training during the first six months following initial
18 certification shall be dedicated to meeting the requirements of
19 paragraph (1) of subdivision (b) of Section 11174.1 of the Penal
20 Code.

21 (3) If the agency determines that the home no longer meets the
22 standards, it shall notify the department and the local placing
23 agency.

24 (c) The department shall develop licensing regulations
25 differentiating between foster family agencies that provide
26 treatment of children in foster families and those that provide
27 nontreatment services.

28 (d) As used in this chapter, “certified family home” means a
29 family residence certified by a licensed foster family agency and
30 issued a certificate of approval by that agency as meeting licensing
31 standards, and used only by that foster family agency for
32 placements.

33 (e) (1) Requirements for social work personnel for a foster
34 family agency shall be a master’s degree from an accredited or
35 state approved graduate school in social work or social welfare,
36 or equivalent education and experience, as determined by the state
37 department.

38 (2) Persons who possess a master’s degree from an accredited
39 or state approved graduate school in any of the following areas,
40 or equivalent education and experience, as determined by the state

1 department, shall be considered to be qualified to perform social
2 work activities in a foster family agency:

- 3 (A) Marriage, family, and child counseling.
- 4 (B) Child psychology.
- 5 (C) Child development.
- 6 (D) Counseling psychology.
- 7 (E) Social psychology.
- 8 (F) Clinical psychology.
- 9 (G) Educational psychology, consistent with the scope of
10 practice as described in Section 4986.10 of the Business and
11 Professions Code.
- 12 (H) Education, with emphasis on counseling.

13 (f) (1) In addition to the degree specifications in subdivision
14 (e), all of the following coursework and field practice or
15 experience, as defined in departmental regulations, shall be required
16 of all new hires for the position of social work personnel effective
17 January 1, 1995:

18 (A) At least three semester units of field practice at the master's
19 level or six months' full-time equivalent experience in a public or
20 private social service agency setting.

21 (B) At least nine semester units of coursework related to human
22 development or human behavior, or, within the first year of
23 employment, experience working with children and families as a
24 major responsibility of the position under the supervision of a
25 supervising social worker.

26 (C) At least three semester units in working with minority
27 populations or six months of experience in working with minority
28 populations or training in cultural competency and working with
29 minority populations within the first six months of employment
30 as a condition of employment.

31 (D) At least three semester units in child welfare or at least six
32 months of experience in a public or private child welfare social
33 services setting for a nonsupervisory social worker. A supervising
34 social worker shall have two years' experience in a public or private
35 child welfare social services setting.

36 (2) (A) Persons who do not meet the requirements specified in
37 subdivision (e) or (f) may apply for an exception as provided for
38 in subdivisions (g) and (h).

39 (B) Exceptions granted by the department prior to January 1,
40 1995, shall remain in effect.

1 (3) (A) Persons who are hired as social work personnel on or
2 after January 1, 1995, who do not meet the requirements listed in
3 this subdivision shall be required to successfully meet those
4 requirements in order to be employed as social work personnel in
5 a foster family agency.

6 (B) Employees who were hired prior to January 1, 1995, shall
7 not be required to meet the requirements of this subdivision in
8 order to remain employed as social work personnel in a foster
9 family agency.

10 (4) Coursework and field practice or experience completed to
11 fulfill the degree requirements of subdivision (e) may be used to
12 satisfy the requirements of this subdivision.

13 (g) Individuals seeking an exception to the requirements of
14 subdivision (e) or (f) based on completion of equivalent education
15 and experience shall apply to the department by the process
16 established by the department.

17 (h) The State Department of Social Services shall be required
18 to complete the process for the exception to minimum education
19 and experience requirements described in subdivisions (e) and (f)
20 within 30 days of receiving the exception application of social
21 work personnel or supervising social worker qualifications from
22 the foster family agency.

23 (i) The department shall review the feasibility of instituting a
24 licensure category to cover foster homes that are established
25 specifically to care for and supervise adults with developmental
26 disabilities, as defined in subdivision (a) of Section 4512 of the
27 Welfare and Institutions Code, to prevent the institutionalization
28 of those individuals.

29 (j) For purposes of this section, “social work personnel” means
30 supervising social workers as well as nonsupervisory social
31 workers.

32 (k) *A foster family agency that provides treatment of children*
33 *in foster families shall employ one full-time social work supervisor*
34 *for every eight social workers or fraction thereof in the agency.*
35 *This subdivision shall not be implemented on or after January 1,*
36 *2011, without the enactment of subsequent statutory authorization.*

37 *SEC. 3. Section 366.21 of the Welfare and Institutions Code*
38 *is amended to read:*

39 366.21. (a) Every hearing conducted by the juvenile court
40 reviewing the status of a dependent child shall be placed on the

1 appearance calendar. The court shall advise all persons present at
2 the hearing of the date of the future hearing and of their right to
3 be present and represented by counsel.

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

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

1 or foster parents approved for adoption, in the caregiver’s primary
2 language when available, along with information on how to file
3 the form with the court.

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

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

1 history information as part of the case plan. The failure of the
2 parent or legal guardian to participate regularly and make
3 substantive progress in court-ordered treatment programs shall be
4 prima facie evidence that return would be detrimental. In making
5 its 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. *The court*
35 *shall take into account any particular barriers to a parent's ability*
36 *to maintain contact with his or her child due to the parent's*
37 *incarceration or institutionalization.* If, however, the court finds
38 there is a substantial probability that the child, who was under
39 three years of age on the date of initial removal or is a member of
40 a sibling group described in subparagraph (C) of paragraph (1) of

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

37 (3) Order that the child remain in long-term foster care, but only
38 if the court finds by clear and convincing evidence, based upon
39 the evidence already presented to it, including a recommendation
40 by the State Department of Social Services when it is acting as an

1 adoption agency in counties that are not served by a county
2 adoption agency or by a licensed county adoption agency, that
3 there is a compelling reason for determining that a hearing held
4 pursuant to Section 366.26 is not in the best interest of the child
5 because the child is not a proper subject for adoption and has no
6 one willing to accept legal guardianship. For purposes of this
7 section, a recommendation by the State Department of Social
8 Services when it is acting as an adoption agency in counties that
9 are not served by a county adoption agency or by a licensed county
10 adoption agency that adoption is not in the best interest of the child
11 shall constitute a compelling reason for the court's determination.
12 That recommendation shall be based on the present circumstances
13 of the child and may not preclude a different recommendation at
14 a later date if the child's circumstances change.

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

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

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

37 (i) (1) Whenever a court orders that a hearing pursuant to
38 Section 366.26 shall be held, it shall direct the agency supervising
39 the child and the licensed county adoption agency, or the State
40 Department of Social Services when it is acting as an adoption

1 agency in counties that are not served by a county adoption agency,
2 to prepare an assessment that shall include:

3 (A) Current search efforts for an absent parent or parents or
4 legal guardians.

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

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

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

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

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

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

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

1 child, shall not constitute the sole basis for recommending removal
2 of the child from the relative caregiver for purposes of adoptive
3 placement.

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

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

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

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

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

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

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

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

34 ~~SEC. 2.~~

35 *SEC. 4.* Section 4094 of the Welfare and Institutions Code is
36 amended to read:

37 4094. (a) The State Department of Mental Health shall
38 establish, by regulations adopted at the earliest possible date, but
39 no later than December 31, 1994, program standards for any facility

1 licensed as a community treatment facility. This section shall apply
2 only to community treatment facilities described in this subdivision.

3 (b) A certification of compliance issued by the State Department
4 of Mental Health shall be a condition of licensure for the
5 community treatment facility by the State Department of Social
6 Services. The department may, upon the request of a county,
7 delegate the certification and supervision of a community treatment
8 facility to the county department of mental health.

9 (c) The State Department of Mental Health shall adopt
10 regulations to include, but not be limited to, the following:

11 (1) Procedures by which the Director of Mental Health shall
12 certify that a facility requesting licensure as a community treatment
13 facility pursuant to Chapter 3 (commencing with Section 1500) of
14 Division 2 of the Health and Safety Code is in compliance with
15 program standards established pursuant to this section.

16 (2) Procedures by which the Director of Mental Health shall
17 deny a certification to a facility or decertify a facility that is
18 licensed as a community treatment facility pursuant to Chapter 3
19 (commencing with Section 1500) of Division 2 of the Health and
20 Safety Code, but no longer complying with program standards
21 established pursuant to this section, in accordance with Chapter 5
22 (commencing with Section 11500) of Part 1 of Division 3 of Title
23 2 of the Government Code.

24 (3) Provisions for site visits by the State Department of Mental
25 Health for the purpose of reviewing a facility's compliance with
26 program standards established pursuant to this section.

27 (4) Provisions for the community care licensing staff of the
28 State Department of Social Services to report to the State
29 Department of Mental Health when there is reasonable cause to
30 believe that a community treatment facility is not in compliance
31 with program standards established pursuant to this section.

32 (5) Provisions for the State Department of Mental Health to
33 provide consultation and documentation to the State Department
34 of Social Services in any administrative proceeding regarding
35 denial, suspension, or revocation of a community treatment facility
36 license.

37 (d) The standards adopted by regulations pursuant to subdivision
38 (a) shall include, but not be limited to, standards for treatment,
39 staffing, and for the use of psychotropic medication, discipline,

1 and restraints in the facilities. The standards shall also meet the
2 requirements of Section 4094.5.

3 (e) (1) Until January 1, 2013, all of the following are applicable:

4 (A) A community treatment facility shall not be required by the
5 State Department of Mental Health to have 24-hour onsite licensed
6 nursing staff, but shall retain at least one full-time, or
7 full-time-equivalent, registered nurse onsite if both of the following
8 are applicable:

9 (i) The facility does not use mechanical restraint.

10 (ii) The facility only admits children who have been assessed,
11 at the point of admission, by a licensed primary care provider and
12 a licensed psychiatrist, who have concluded, with respect to each
13 child, that the child does not require medical services that require
14 24-hour nursing coverage. For purposes of this section, a “primary
15 care provider” includes a person defined in Section 14254, or a
16 nurse practitioner who has the responsibility for providing initial
17 and primary care to patients, for maintaining the continuity of care,
18 and for initiating referral for specialist care.

19 (B) Other medical or nursing staff shall be available on call to
20 provide appropriate services, when necessary, within one hour.

21 (C) All direct care staff shall be trained in first aid and
22 cardiopulmonary resuscitation, and in emergency intervention
23 techniques and methods approved by the Community Care
24 Licensing Division of the State Department of Social Services.

25 (2) The State Department of Mental Health may adopt
26 emergency regulations as necessary to implement this subdivision.
27 The adoption of these regulations shall be deemed to be an
28 emergency and necessary for the immediate preservation of the
29 public peace, health and safety, and general welfare. The
30 regulations shall be exempt from review by the Office of
31 Administrative Law and shall become effective immediately upon
32 filing with the Secretary of State. The regulations shall not remain
33 in effect more than 180 days unless the adopting agency complies
34 with all the provisions of Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
36 as required by subdivision (e) of Section 11346.1 of the
37 Government Code.

38 (f) During the initial public comment period for the adoption
39 of the regulations required by this section, the community care
40 facility licensing regulations proposed by the State Department of

1 Social Services and the program standards proposed by the State
2 Department of Mental Health shall be presented simultaneously.

3 (g) A minor shall be admitted to a community treatment facility
4 only if the requirements of Section 4094.5 and either of the
5 following conditions are met:

6 (1) The minor is within the jurisdiction of the juvenile court,
7 and has made voluntary application for mental health services
8 pursuant to Section 6552.

9 (2) Informed consent is given by a parent, guardian, conservator,
10 or other person having custody of the minor.

11 (h) Any minor admitted to a community treatment facility shall
12 have the same due process rights afforded to a minor who may be
13 admitted to a state hospital, pursuant to the holding in *In re Roger*
14 *S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of
15 the court and to whom this subdivision applies shall be afforded
16 due process in accordance with Section 6552 and related case law,
17 including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations
18 adopted pursuant to Section 4094 shall specify the procedures for
19 ensuring these rights, including provisions for notification of rights
20 and the time and place of hearings.

21 (i) Notwithstanding Section 13340 of the Government Code,
22 the sum of forty-five thousand dollars (\$45,000) is hereby
23 appropriated annually from the General Fund to the State
24 Department of Mental Health for one personnel year to carry out
25 the provisions of this section.

26 ~~SEC. 3.— Section 11460 of the Welfare and Institutions Code is~~
27 ~~amended to read:~~

28 ~~11460. (a) Foster care providers shall be paid a per child per~~
29 ~~month rate in return for the care and supervision of the AFDC-FC~~
30 ~~child placed with them. The department is designated the single~~
31 ~~organizational unit whose duty it shall be to administer a state~~
32 ~~system for establishing rates in the AFDC-FC program. State~~
33 ~~functions shall be performed by the department or by delegation~~
34 ~~of the department to county welfare departments or Indian tribes~~
35 ~~that have entered into an agreement pursuant to Section 10553.1.~~

36 ~~(b) “Care and supervision” includes food, clothing, shelter, daily~~
37 ~~supervision, school supplies, a child’s personal incidentals, liability~~
38 ~~insurance with respect to a child, reasonable travel to the child’s~~
39 ~~home for visitation, and costs for reasonable travel for the child~~

1 to remain in the school in which he or she is enrolled at the time
2 of placement.

3 (1) For a child placed in a group home, care and supervision
4 shall also include reasonable administration and operational
5 activities necessary to provide the items listed in this subdivision.

6 (2) For a child placed in a group home, care and supervision
7 may also include reasonable activities performed by social workers
8 employed by the group home provider which are not otherwise
9 considered daily supervision or administration activities.

10 (e) It is the intent of the Legislature to establish the maximum
11 level of state participation in out-of-state foster care group home
12 program rates effective January 1, 1992.

13 (1) The department shall develop regulations that establish the
14 method for determining the level of state participation for each
15 out-of-state group home program. The department shall consider
16 all of the following methods:

17 (A) A standardized system based on the level of care and
18 services per child per month as detailed in Section 11462.

19 (B) A system which considers the actual allowable and
20 reasonable costs of care and supervision incurred by the program.

21 (C) A system which considers the rate established by the host
22 state.

23 (D) Any other appropriate methods as determined by the
24 department.

25 (2) State reimbursement for the AFDC-FC group home rate to
26 be paid to an out-of-state program on or after January 1, 1992,
27 shall only be paid to programs which have done both of the
28 following:

29 (A) Submitted a rate application to the department and received
30 a determination of the level of state participation.

31 (i) The level of state participation shall not exceed the current
32 fiscal year's standard rate for rate classification level 14.

33 (ii) The level of state participation shall not exceed the rate
34 determined by the ratesetting authority of the state in which the
35 facility is located.

36 (iii) The level of state participation shall not decrease for any
37 child placed prior to January 1, 1992, who continues to be placed
38 in the same out-of-state group home program.

39 (B) Agreed to comply with information requests, and program
40 and fiscal audits as determined necessary by the department.

1 ~~(3) State reimbursement for an AFDC-FC rate paid on or after~~
2 ~~January 1, 1993, shall only be paid to a group home organized and~~
3 ~~operated on a nonprofit basis.~~

4 ~~(d) A foster care provider that accepts payments, following the~~
5 ~~effective date of this section, based on a rate established under this~~
6 ~~section, shall not receive rate increases or retroactive payments as~~
7 ~~the result of litigation challenging rates established prior to the~~
8 ~~effective date of this section. This shall apply regardless of whether~~
9 ~~a provider is a party to the litigation or a member of a class covered~~
10 ~~by the litigation.~~

11 ~~(e) Nothing shall preclude a county from using a portion of its~~
12 ~~county funds to increase rates paid to family homes and foster~~
13 ~~family agencies within that county, and to make payments for~~
14 ~~specialized care increments, clothing allowances, or infant~~
15 ~~supplements to homes within that county, solely at that county's~~
16 ~~expense.~~

17 *SEC. 5. Section 11462 of the Welfare and Institutions Code is*
18 *amended to read:*

19 11462. (a) (1) Effective July 1, 1990, foster care providers
20 licensed as group homes, as defined in departmental regulations,
21 including public child care institutions, as defined in Section
22 11402.5, shall have rates established by classifying each group
23 home program and applying the standardized schedule of rates.
24 The department shall collect information from group providers
25 beginning January 1, 1990, in order to classify each group home
26 program.

27 (2) Notwithstanding paragraph (1), foster care providers licensed
28 as group homes shall have rates established only if the group home
29 is organized and operated on a nonprofit basis as required under
30 subdivision (h) of Section 11400. The department shall terminate
31 the rate effective January 1, 1993, of any group home not organized
32 and operated on a nonprofit basis as required under subdivision
33 (h) of Section 11400.

34 (3) (A) The department shall determine, consistent with the
35 requirements of this chapter and other relevant requirements under
36 law, the rate classification level (RCL) for each group home
37 program on a biennial basis. Submission of the biennial rate
38 application shall be made according to a schedule determined by
39 the department.

1 (B) The department shall adopt regulations to implement this
2 paragraph. The adoption, amendment, repeal, or readoption of a
3 regulation authorized by this paragraph is deemed to be necessary
4 for the immediate preservation of the public peace, health and
5 safety, or general welfare, for purposes of Sections 11346.1 and
6 11349.6 of the Government Code, and the department is hereby
7 exempted from the requirement to describe specific facts showing
8 the need for immediate action.

9 (b) A group home program shall be initially classified, for
10 purposes of emergency regulations, according to the level of care
11 and services to be provided using a point system developed by the
12 department and described in the report, “The Classification of
13 Group Home Programs under the Standardized Schedule of Rates
14 System,” prepared by the State Department of Social Services,
15 August 30, 1989.

16 (c) The rate for each RCL has been determined by the
17 department with data from the AFDC-FC Group Home Rate
18 Classification Pilot Study. The rates effective July 1, 1990, were
19 developed using 1985 calendar year costs and reflect adjustments
20 to the costs for each fiscal year, starting with the 1986–87 fiscal
21 year, by the amount of the California Necessities Index computed
22 pursuant to the methodology described in Section 11453. The data
23 obtained by the department using 1985 calendar year costs shall
24 be updated and revised by January 1, 1993.

25 (d) As used in this section, “standardized schedule of rates”
26 means a listing of the 14 rate classification levels, and the single
27 rate established for each RCL.

28 (e) Except as specified in paragraph (1), the department shall
29 determine the RCL for each group home program on a prospective
30 basis, according to the level of care and services that the group
31 home operator projects will be provided during the period of time
32 for which the rate is being established.

33 (1) (A) For new and existing providers requesting the
34 establishment of an RCL, and for existing group home programs
35 requesting an RCL increase, the department shall determine the
36 RCL no later than 13 months after the effective date of the
37 provisional rate. The determination of the RCL shall be based on
38 a program audit of documentation and other information that
39 verifies the level of care and supervision provided by the group
40 home program during a period of the two full calendar months or

1 60 consecutive days, whichever is longer, preceding the date of
2 the program audit, unless the group home program requests a lower
3 RCL. The program audit shall not cover the first six months of
4 operation under the provisional rate. Pending the department's
5 issuance of the program audit report that determines the RCL for
6 the group home program, the group home program shall be eligible
7 to receive a provisional rate that shall be based on the level of care
8 and service that the group home program proposes it will provide.
9 The group home program shall be eligible to receive only the RCL
10 determined by the department during the pendency of any appeal
11 of the department's RCL determination.

12 (B) A group home program may apply for an increase in its
13 RCL no earlier than two years from the date the department has
14 determined the group home program's rate, unless the host county,
15 the primary placing county, or a regional consortium of counties
16 submits to the department in writing that the program is needed
17 in that county, that the provider is capable of effectively and
18 efficiently operating the proposed program, and that the provider
19 is willing and able to accept AFDC-FC children for placement
20 who are determined by the placing agency to need the level of care
21 and services that will be provided by the program.

22 (C) To ensure efficient administration of the department's audit
23 responsibilities, and to avoid the fraudulent creation of records,
24 group home programs shall make records that are relevant to the
25 RCL determination available to the department in a timely manner.
26 Except as provided in this section, the department may refuse to
27 consider, for purposes of determining the rate, any documents that
28 are relevant to the determination of the RCL that are not made
29 available by the group home provider by the date the group home
30 provider requests a hearing on the department's RCL
31 determination. The department may refuse to consider, for purposes
32 of determining the rate, the following records, unless the group
33 home provider makes the records available to the department
34 during the fieldwork portion of the department's program audit:

35 (i) Records of each employee's full name, home address,
36 occupation, and social security number.

37 (ii) Time records showing when the employee begins and ends
38 each work period, meal periods, split shift intervals, and total daily
39 hours worked.

40 (iii) Total wages paid each payroll period.

1 (iv) Records required to be maintained by licensed group home
2 providers under Title 22 of the California Code of Regulations
3 that are relevant to the RCL determination.

4 (D) To minimize financial abuse in the startup of group home
5 programs, when the department's RCL determination is more than
6 three levels lower than the RCL level proposed by the group home
7 provider, and the group home provider does not appeal the
8 department's RCL determination, the department shall terminate
9 the rate of a group home program 45 days after issuance of its
10 program audit report. When the group home provider requests a
11 hearing on the department's RCL determination, and the RCL
12 determined by the director under subparagraph (E) is more than
13 three levels lower than the RCL level proposed by the group home
14 provider, the department shall terminate the rate of a group home
15 program within 30 days of issuance of the director's decision.
16 Notwithstanding the reapplication provisions in subparagraph (B),
17 the department shall deny any request for a new or increased RCL
18 from a group home provider whose RCL is terminated pursuant
19 to this subparagraph, for a period of no greater than two years from
20 the effective date of the RCL termination.

21 (E) A group home provider may request a hearing of the
22 department's RCL determination under subparagraph (A) no later
23 than 30 days after the date the department issues its RCL
24 determination. The department's RCL determination shall be final
25 if the group home provider does not request a hearing within the
26 prescribed time. Within 60 days of receipt of the request for
27 hearing, the department shall conduct a hearing on the RCL
28 determination. The standard of proof shall be the preponderance
29 of the evidence and the burden of proof shall be on the department.
30 The hearing officer shall issue the proposed decision within 45
31 days of the close of the evidentiary record. The director shall adopt,
32 reject, or modify the proposed decision, or refer the matter back
33 to the hearing officer for additional evidence or findings within
34 100 days of issuance of the proposed decision. If the director takes
35 no action on the proposed decision within the prescribed time, the
36 proposed decision shall take effect by operation of law.

37 (2) Group home programs that fail to maintain at least the level
38 of care and services associated with the RCL upon which their rate
39 was established shall inform the department. The department shall
40 develop regulations specifying procedures to be applied when a

1 group home fails to maintain the level of services projected,
2 including, but not limited to, rate reduction and recovery of
3 overpayments.

4 (3) The department shall not reduce the rate, establish an
5 overpayment, or take other actions pursuant to paragraph (2) for
6 any period that a group home program maintains the level of care
7 and services associated with the RCL for children actually residing
8 in the facility. Determinations of levels of care and services shall
9 be made in the same way as modifications of overpayments are
10 made pursuant to paragraph (2) of subdivision (b) of Section
11 11466.2.

12 (4) A group home program that substantially changes its staffing
13 pattern from that reported in the group home program statement
14 shall provide notification of this change to all counties that have
15 placed children currently in care. This notification shall be provided
16 whether or not the RCL for the program may change as a result of
17 the change in staffing pattern.

18 (f) (1) The standardized schedule of rates for the 2002–03,
19 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years
20 is:

21	22	23	24	25
	Rate	Point Ranges	FY 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, and 2007-08	Standard Rate
	Classification			
	Level			
26	1	Under 60		\$1,454
27	2	60- 89		1,835
28	3	90-119		2,210
29	4	120-149		2,589
30	5	150-179		2,966
31	6	180-209		3,344
32	7	210-239		3,723
33	8	240-269		4,102
34	9	270-299		4,479
35	10	300-329		4,858
36	11	330-359		5,234
37	12	360-389		5,613
38	13	390-419		5,994
39	14	420 & Up		6,371
40				

1 (2) (A) For group home programs that receive AFDC-FC
 2 payments for services performed during the 2002–03, 2003–04,
 3 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10
 4 fiscal years, the adjusted RCL point ranges below shall be used
 5 for establishing the biennial rates for existing programs, pursuant
 6 to paragraph (3) of subdivision (a) and in performing program
 7 audits and in determining any resulting rate reduction, overpayment
 8 assessment, or other actions pursuant to paragraph (2) of
 9 subdivision (e):

10		
11	Rate	Adjusted Point Ranges
12	Classification	for the 2002-03, 2003-04,
13		2004-05, 2005-06, 2006-07,
14		2007-08, 2008-09, and 2009-10
15	Level	Fiscal Years
16	1	Under 54
17	2	54- 81
18	3	82-110
19	4	111-138
20	5	139-167
21	6	168-195
22	7	196-224
23	8	225-253
24	9	254-281
25	10	282-310
26	11	311-338
27	12	339-367
28	13	368-395
29	14	396 & Up
30		

31 (B) Notwithstanding subparagraph (A), foster care providers
 32 operating group homes during the 2002–03, 2003–04, 2004–05,
 33 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 fiscal years
 34 shall remain responsible for ensuring the health and safety of the
 35 children placed in their programs in accordance with existing
 36 applicable provisions of the Health and Safety Code and
 37 community care licensing regulations, as contained in Title 22 of
 38 the Code of California Regulations.

39 (C) Subparagraph (A) shall not apply to program audits of group
 40 home programs with provisional rates established pursuant to

1 paragraph (1) of subdivision (e). For those program audits, the
 2 RCL point ranges in paragraph (1) shall be used.

3 (D) Rates applicable for the 2009–10 fiscal year pursuant to the
 4 act that adds this subparagraph shall be effective October 1, 2009.

5 (3) (A) *For group home programs that receive AFDC-FC*
 6 *payments for services performed during the 2009–10 fiscal year*
 7 *and subsequent fiscal years, the adjusted RCL point ranges below*
 8 *shall be used for establishing the biennial rates for existing*
 9 *programs, pursuant to paragraph (3) of subdivision (a) and in*
 10 *performing program audits and in determining any resulting rate*
 11 *reduction, overpayment assessment, or other actions pursuant to*
 12 *paragraph (2) of subdivision (e):*

14	<i>Rate</i>	<i>Adjusted Point Ranges</i>
15	<i>Classification</i>	<i>for 2009–10 and</i>
16	<i>Level</i>	<i>Subsequent Fiscal Years</i>
17	<i>1</i>	<i>Under 39</i>
18	<i>2</i>	<i>39-64</i>
19	<i>3</i>	<i>65-90</i>
20	<i>4</i>	<i>91-115</i>
21	<i>5</i>	<i>116-141</i>
22	<i>6</i>	<i>142-167</i>
23	<i>7</i>	<i>168-192</i>
24	<i>8</i>	<i>193-218</i>
25	<i>9</i>	<i>219-244</i>
26	<i>10</i>	<i>245-270</i>
27	<i>11</i>	<i>271-295</i>
28	<i>12</i>	<i>296-321</i>
29	<i>13</i>	<i>322-347</i>
30	<i>14</i>	<i>348 & Up</i>

31
 32 (B) *Notwithstanding subparagraph (A), foster care providers*
 33 *operating group homes during the 2009–10 fiscal year and*
 34 *subsequent fiscal years shall remain responsible for ensuring the*
 35 *health and safety of the children placed in their programs in*
 36 *accordance with existing applicable provisions of the Health and*
 37 *Safety Code and community care licensing regulations as contained*
 38 *in Title 22 of the California Code of Regulations.*

39 (C) *Subparagraph (A) shall not apply to program audits of*
 40 *group home programs with provisional rates established pursuant*

1 *to paragraph (1) of subdivision (e). For those program audits, the*
2 *RCL point ranges in paragraph (1) shall be used. This paragraph*
3 *shall not be implemented on and after January 1, 2011, without*
4 *the enactment of subsequent statutory authorization.*

5 (g) (1) (A) For the 1999–2000 fiscal year, the standardized
6 rate for each RCL shall be adjusted by an amount equal to the
7 California Necessities Index computed pursuant to the methodology
8 described in Section 11453. The resultant amounts shall constitute
9 the new standardized schedule of rates, subject to further
10 adjustment pursuant to subparagraph (B).

11 (B) In addition to the adjustment in subparagraph (A),
12 commencing January 1, 2000, the standardized rate for each RCL
13 shall be increased by 2.36 percent, rounded to the nearest dollar.
14 The resultant amounts shall constitute the new standardized
15 schedule of rates.

16 (2) Beginning with the 2000–01 fiscal year, the standardized
17 schedule of rates shall be adjusted annually by an amount equal
18 to the CNI computed pursuant to Section 11453, subject to the
19 availability of funds. The resultant amounts shall constitute the
20 new standardized schedule of rates.

21 (3) Effective January 1, 2001, the amount included in the
22 standard rate for each Rate Classification Level (RCL) for the
23 salaries, wages, and benefits for staff providing child care and
24 supervision or performing social work activities, or both, shall be
25 increased by 10 percent. This additional funding shall be used by
26 group home programs solely to supplement staffing, salaries,
27 wages, and benefit levels of staff specified in this paragraph. The
28 standard rate for each RCL shall be recomputed using this adjusted
29 amount and the resultant rates shall constitute the new standardized
30 schedule of rates. The department may require a group home
31 receiving this additional funding to certify that the funding was
32 utilized in accordance with the provisions of this section.

33 (4) Effective January 1, 2008, the amount included in the
34 standard rate for each RCL for the wages for staff providing child
35 care and supervision or performing social work activities, or both,
36 shall be increased by 5 percent, and the amount included for the
37 payroll taxes and other employer-paid benefits for these staff shall
38 be increased from 20.325 percent to 24 percent. The standard rate
39 for each RCL shall be recomputed using these adjusted amounts,

1 and the resulting rates shall constitute the new standardized
2 schedule of rates.

3 (5) The new standardized schedule of rates as provided for in
4 paragraph (4) shall be reduced by 10 percent, effective October 1,
5 2009, and the resulting rates shall constitute the new standardized
6 schedule of rates.

7 (6) The rates of licensed group home providers, whose rates are
8 not established under the standardized schedule of rates, shall be
9 reduced by 10 percent, effective October 1, 2009.

10 (h) The standardized schedule of rates pursuant to subdivisions
11 (f) and (g) shall be implemented as follows:

12 (1) Any group home program that received an AFDC-FC rate
13 in the prior fiscal year at or above the standard rate for the RCL
14 in the current fiscal year shall continue to receive that rate.

15 (2) Any group home program that received an AFDC-FC rate
16 in the prior fiscal year below the standard rate for the RCL in the
17 current fiscal year shall receive the RCL rate for the current year.

18 (i) (1) The department shall not establish a rate for a new
19 program of a new or existing provider, or for an existing program
20 at a new location of an existing provider, unless the provider
21 submits a letter of recommendation from the host county, the
22 primary placing county, or a regional consortium of counties that
23 includes all of the following:

24 (A) That the program is needed by that county.

25 (B) That the provider is capable of effectively and efficiently
26 operating the program.

27 (C) That the provider is willing and able to accept AFDC-FC
28 children for placement who are determined by the placing agency
29 to need the level of care and services that will be provided by the
30 program.

31 (D) That, if the letter of recommendation is not being issued by
32 the host county, the primary placing county has notified the host
33 county of its intention to issue the letter and the host county was
34 given the opportunity 30 days to respond to this notification and
35 to discuss options with the primary placing county.

36 (2) The department shall encourage the establishment of
37 consortia of county placing agencies on a regional basis for the
38 purpose of making decisions and recommendations about the need
39 for, and use of, group home programs and other foster care
40 providers within the regions.

1 (3) The department shall annually conduct a county-by-county
2 survey to determine the unmet placement needs of children placed
3 pursuant to Section 300 and Section 601 or 602, and shall publish
4 its findings by November 1 of each year.

5 (j) The department shall develop regulations specifying
6 ratesetting procedures for program expansions, reductions, or
7 modifications, including increases or decreases in licensed capacity,
8 or increases or decreases in level of care or services.

9 (k) (1) For the purpose of this subdivision, “program change”
10 means any alteration to an existing group home program planned
11 by a provider that will increase the RCL or AFDC-FC rate. An
12 increase in the licensed capacity or other alteration to an existing
13 group home program that does not increase the RCL or AFDC-FC
14 rate shall not constitute a program change.

15 (2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the
16 rate for a group home program shall not increase, as the result of
17 a program change, from the rate established for the program
18 effective July 1, 2000, and as adjusted pursuant to subparagraph
19 (B) of paragraph (1) of subdivision (g), except as provided in
20 paragraph (3).

21 (3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years,
22 the department shall not establish a rate for a new program of a
23 new or existing provider or approve a program change for an
24 existing provider that either increases the program’s RCL or
25 AFDC-FC rate, or increases the licensed capacity of the program
26 as a result of decreases in another program with a lower RCL or
27 lower AFDC-FC rate that is operated by that provider, unless both
28 of the following conditions are met:

29 (i) The licensee obtains a letter of recommendation from the
30 host county, primary placing county, or regional consortium of
31 counties regarding the proposed program change or new program.

32 (ii) The county determines that there is no increased cost to the
33 General Fund.

34 (B) Notwithstanding subparagraph (A), the department may
35 grant a request for a new program or program change, not to exceed
36 25 beds, statewide, if both of the following conditions are met:

37 (i) The licensee obtains a letter of recommendation from the
38 host county, primary placing county, or regional consortium of
39 counties regarding the proposed program change or new program.

1 (ii) The department determines that the new program or program
2 change will result in a reduction of referrals to state hospitals
3 during the 1998–99 fiscal year.

4 (l) General unrestricted or undesignated private charitable
5 donations and contributions made to charitable or nonprofit
6 organizations shall not be deducted from the cost of providing
7 services pursuant to this section. The donations and contributions
8 shall not be considered in any determination of maximum
9 expenditures made by the department.

10 (m) The department shall, by October 1 of each year,
11 commencing October 1, 1992, provide the Joint Legislative Budget
12 Committee with a list of any new departmental requirements
13 established during the previous fiscal year concerning the operation
14 of group homes, and of any unusual, industrywide increase in costs
15 associated with the provision of group care that may have
16 significant fiscal impact on providers of group homes care. The
17 committee may, in fiscal year 1993–94 and beyond, use the list to
18 determine whether an appropriation for rate adjustments is needed
19 in the subsequent fiscal year.

20 ~~SEC. 4.~~

21 *SEC. 6.* Section 16010.2 is added to the Welfare and Institutions
22 Code, to read:

23 16010.2. The department, in consultation with pediatricians,
24 other health care experts, *including public health nurses*, and
25 experts in and recipients of child welfare services, *including*
26 *parents*, shall develop a plan for the ongoing oversight and
27 coordination of health care services for a child in a foster care
28 placement. The plan shall ensure a coordinated strategy to identify
29 and respond to the health care needs of foster children, including
30 mental health and dental needs, consistent with Section 205 of the
31 federal Fostering Connections to Success and Increasing Adoptions
32 Act of 2008 (Public Law 110-351).

33 ~~SEC. 5.~~

34 *SEC. 7.* Section 16119 of the Welfare and Institutions Code is
35 amended to read:

36 16119. (a) At the time application for adoption of a child who
37 is potentially eligible for Adoption Assistance Program benefits
38 is made, and at the time immediately prior to the finalization of
39 the adoption decree, the department or the licensed adoption
40 agency, whichever is appropriate, shall provide the prospective

1 adoptive family with information, in writing, on the availability
2 of Adoption Assistance Program benefits, with an explanation of
3 the difference between these benefits and foster care payments.
4 The department or the licensed adoption agency shall also provide
5 the prospective adoptive family with information, in writing, on
6 the availability of reimbursement for the nonrecurring expenses
7 incurred in the adoption of the Adoption Assistance Program
8 eligible child. The department or licensed adoption agency shall
9 also provide the prospective adoptive family with information on
10 the availability of mental health services through the Medi-Cal
11 program or other programs. The department or licensed adoption
12 agency shall also provide information regarding the federal
13 adoption tax credit for any individual who is adopting or
14 considering adopting a child in foster care, in accordance with
15 Section 403 of the federal Fostering Connections to Success and
16 Increasing Adoptions Act of 2008 (Public Law 110-351).

17 (b) The department or the licensed agency shall encourage
18 families that elect not to sign an adoption assistance agreement to
19 sign a deferred adoption assistance agreement.

20 (c) The department or the county, whichever is responsible for
21 determining the child’s eligibility for the Adoption Assistance
22 Program, shall assess the needs of the child and the circumstances
23 of the family.

24 (d) (1) The amount of an adoption assistance cash benefit, if
25 any, shall be a negotiated amount based upon the needs of the child
26 and the circumstances of the family. There shall be no means test
27 used to determine an adoptive family’s eligibility for the Adoption
28 Assistance Program, or the amount of adoption assistance
29 payments. In those instances where an otherwise eligible child
30 does not require a cash benefit, Medi-Cal eligibility may be
31 established for the child, as needed.

32 (2) For purposes of paragraph (1), “circumstances of the family”
33 includes the family’s ability to incorporate the child into the
34 household in relation to the lifestyle, standard of living, and future
35 plans and to the overall capacity to meet the immediate and future
36 plans and needs, including education, of the child.

37 (e) The department or the licensed adoption agency shall inform
38 the prospective adoptive family regarding the county responsible
39 for providing financial aid to the adoptive family in an amount
40 determined pursuant to Sections 16120 and 16120.1.

1 (f) The department or the licensed adoption agency shall inform
2 the prospective adoptive family that the adoptive parents will
3 continue to receive benefits in the agreed upon amount unless one
4 of the following occurs:

5 (1) The department determines that the adoptive parents are no
6 longer legally responsible for the support of the child.

7 (2) The department determines that the child is no longer
8 receiving support from the adoptive family.

9 (3) The adoption assistance payment exceeds the amount that
10 the child would have been eligible for in a licensed foster home.

11 (4) The adoptive parents demonstrate a need for an increased
12 payment.

13 (5) The adoptive parents voluntarily reduce or terminate
14 payments.

15 (6) The adopted child has an extraordinary need that was not
16 anticipated at the time the amount of the adoption assistance was
17 originally negotiated.

18 ~~SEC. 5.5.~~

19 *SEC. 7.5.* Section 16119 of the Welfare and Institutions Code
20 is amended to read:

21 16119. (a) At the time application for adoption of a child who
22 is potentially eligible for Adoption Assistance Program benefits
23 is made, and at the time immediately prior to the finalization of
24 the adoption decree, the department or the licensed adoption
25 agency, whichever is appropriate, shall provide the prospective
26 adoptive family with information, in writing, on the availability
27 of Adoption Assistance Program benefits, with an explanation of
28 the difference between these benefits and foster care payments.
29 The department or the licensed adoption agency shall also provide
30 the prospective adoptive family with information, in writing, on
31 the availability of reimbursement for the nonrecurring expenses
32 incurred in the adoption of the Adoption Assistance Program
33 eligible child. The department or licensed adoption agency shall
34 also provide the prospective adoptive family with information on
35 the availability of mental health services through the Medi-Cal
36 program or other programs. The department or licensed adoption
37 agency shall also provide information regarding the federal
38 adoption tax credit for any individual who is adopting or
39 considering adopting a child in foster care, in accordance with

1 Section 403 of the federal Fostering Connections to Success and
2 Increasing Adoptions Act of 2008 (Public Law 110-351).

3 (b) The department or the licensed agency shall encourage
4 families that elect not to sign an adoption assistance agreement to
5 sign a deferred adoption assistance agreement.

6 (c) The department or the county, whichever is responsible for
7 determining the child’s eligibility for the Adoption Assistance
8 Program, shall assess the needs of the child and the circumstances
9 of the family.

10 (d) (1) The amount of an adoption assistance cash benefit, if
11 any, shall be a negotiated amount based upon the needs of the child
12 and the circumstances of the family. There shall be no means test
13 used to determine an adoptive family’s eligibility for the Adoption
14 Assistance Program, or the amount of adoption assistance
15 payments. In those instances where an otherwise eligible child
16 does not require a cash benefit, Medi-Cal eligibility may be
17 established for the child, as needed.

18 (2) For purposes of paragraph (1), “circumstances of the family”
19 includes the family’s ability to incorporate the child into the
20 household in relation to the lifestyle, standard of living, and future
21 plans and to the overall capacity to meet the immediate and future
22 plans and needs, including education, of the child.

23 (e) The department or the licensed adoption agency shall inform
24 the prospective adoptive family regarding the county responsible
25 for providing financial aid to the adoptive family in an amount
26 determined pursuant to Sections 16120 and 16120.1.

27 (f) The department or the licensed adoption agency shall inform
28 the prospective adoptive family that the adoptive parents will
29 continue to receive benefits in the agreed upon amount unless one
30 of the following occurs:

31 (1) The department determines that the adoptive parents are no
32 longer legally responsible for the support of the child.

33 (2) The department determines that the child is no longer
34 receiving support from the adoptive family.

35 (3) The adoption assistance payment exceeds the amount that
36 the child would have been eligible for in a licensed foster home.

37 (4) The adoptive parents demonstrate a need for an increased
38 payment.

39 (5) The adoptive parents voluntarily reduce or terminate
40 payments.

1 (6) The adopted child has an extraordinary need that was not
2 anticipated at the time the amount of the adoption assistance was
3 originally negotiated.

4 (g) The department or licensed adoption agency shall inform
5 the prospective adoptive family of their potential eligibility for a
6 federal tax credit under Section 23 of the Internal Revenue Code
7 of 1986 (26 U.S.C. Sec. 23) and a state tax credit under Section
8 17052.25 of the Revenue and Taxation Code.

9 ~~SEC. 6.~~

10 *SEC. 8.* Section 16120.1 of the Welfare and Institutions Code
11 is amended to read:

12 16120.1. Upon the authorization of the department or, where
13 appropriate, the county responsible for determining the child’s
14 Adoption Assistance Program eligibility status and for providing
15 financial aid, the responsible county shall directly reimburse
16 eligible individuals for reasonable nonrecurring expenses, as
17 defined by the department, incurred as a result of the adoption of
18 a special needs child, as defined in subdivisions (a) to (c), inclusive,
19 and subdivision (l), of Section 16120. The state shall provide
20 payment to the county for the reimbursement. Reimbursements
21 shall conform to the eligibility criteria and claiming procedures
22 established by the department and shall be subject to the following
23 conditions:

24 (a) The amount of the payment shall be determined through
25 agreement between the adopting parent or parents and the
26 department or the county responsible for determining the child’s
27 Adoption Assistance Program eligibility status and for providing
28 financial aid. The agreement shall indicate the nature and the
29 amount of the nonrecurring expenses to be paid. Payments shall
30 be limited to an amount not to exceed four hundred dollars (\$400)
31 for each placement eligible for the Adoption Assistance Program.

32 (b) There shall be no income eligibility requirement for an
33 adoptive parent or adoptive parents in determining whether
34 payments for nonrecurring expenses shall be made.

35 (c) Reimbursement for nonrecurring expenses shall be limited
36 to costs incurred by or on behalf of an adoptive parent or adoptive
37 parents that are not reimbursed from other sources. No payments
38 shall be made under this section if the federal program for
39 reimbursement of nonrecurring expenses for the adoption of

1 children eligible for the Adoption Assistance Program pursuant to
2 Section 673 of Title 42 of the United States Code is terminated.

3 (d) Reimbursement for nonrecurring expenses shall be in
4 addition to any adoption expenses paid pursuant to Section 16121
5 and shall not be included in the computation of maximum benefits
6 for which the adoptive family is eligible pursuant to Section 16121.

7 ~~SEC. 7.~~

8 *SEC. 9.* Section 16121 of the Welfare and Institutions Code is
9 amended to read:

10 16121. (a) In accordance with the adoption assistance
11 agreement, the adoptive family shall be paid an amount of aid
12 based on the child's needs otherwise covered in AFDC-FC
13 payments and the circumstance of the adopting parents but that
14 shall not exceed the foster care maintenance payment that would
15 have been paid based on the age related state-approved foster
16 family home care rate, and any applicable specialized care
17 increment, for a child placed in a licensed or approved family home
18 pursuant to subdivisions (a) to (d), inclusive, of Section 11461.
19 This subdivision shall only apply to adoption assistance agreements
20 executed before January 1, 2010.

21 (1) Notwithstanding any other provision of this section, for
22 adoption assistance agreements executed on or after January 1,
23 2010, the adoptive family shall be paid an amount of aid based on
24 the child's needs otherwise covered in AFDC-FC payments and
25 the circumstance of the adopting parents, but that amount shall not
26 exceed the foster care maintenance payment, and any applicable
27 specialized care increment, that the child received while placed in
28 a licensed or approved family home pursuant to subdivisions (a)
29 to (d), inclusive, of Section 11461.

30 (2) For adoption assistance agreements executed on or after
31 January 1, 2010, adoption assistance benefits shall not be increased
32 based on age, as occurs for foster family homes pursuant to
33 subdivisions (a) to (d), inclusive, of Section 11461. This paragraph
34 shall not preclude any reassessments of the child's needs, consistent
35 with other provisions of this chapter.

36 (b) Payment may be made on behalf of an otherwise eligible
37 child in a state-approved group home or residential care treatment
38 facility if the department or county responsible for determining
39 payment has confirmed that the placement is necessary for the
40 temporary resolution of mental or emotional problems related to

1 a condition that existed prior to the adoptive placement.
2 Out-of-home placements shall be in accordance with the applicable
3 provisions of Chapter 3 (commencing with Section 1500) of
4 Division 2 of the Health and Safety Code and other applicable
5 statutes and regulations governing eligibility for AFDC-FC
6 payments for placements in in-state and out-of-state facilities. The
7 designation of the placement facility shall be made after
8 consultation with the family by the department or county welfare
9 agency responsible for determining the Adoption Assistance
10 Program (AAP) eligibility and authorizing financial aid. Group
11 home or residential placement shall only be made as part of a plan
12 for return of the child to the adoptive family, that shall actively
13 participate in the plan. Adoption Assistance Program benefits may
14 be authorized for payment for an eligible child's group home or
15 residential treatment facility placement if the placement is justified
16 by a specific episode or condition and does not exceed an 18-month
17 cumulative period of time. After an initial authorized group home
18 or residential treatment facility placement, subsequent
19 authorizations for payment for a group home or residential
20 treatment facility placement may be based on an eligible child's
21 subsequent specific episodes or conditions.

22 (c) (1) Payments on behalf of a child who is a recipient of AAP
23 benefits who is also a consumer of regional center services shall
24 be based on the rates established by the State Department of Social
25 Services pursuant to Section 11464 and subject to the process
26 described in paragraph (1) of subdivision (d) of Section 16119.

27 (2) (A) Except as provided for in subparagraph (B), this
28 subdivision shall apply to adoption assistance agreements signed
29 on or after July 1, 2007.

30 (B) Rates paid on behalf of regional center consumers who are
31 recipients of AAP benefits and for whom an adoption assistance
32 agreement was executed before July 1, 2007, shall remain in effect,
33 and may only be changed in accordance with Section 16119.

34 (i) If the rates paid pursuant to adoption assistance agreements
35 executed before July 1, 2007, are lower than the rates specified in
36 paragraph (1) of subdivision (c) or paragraph (1) of subdivision
37 (d) of Section 11464, respectively, those rates shall be increased,
38 as appropriate and in accordance *with* Section 16119, to the amount
39 set forth in paragraph (1) of subdivision (c) or paragraph (1) of
40 subdivision (d) of Section 11464, effective July 1, 2007. Once set,

1 the rates shall remain in effect and may only be changed in
2 accordance with Section 16119.

3 (ii) For purposes of this clause, for a child who is a recipient of
4 AAP benefits or for whom the execution of an AAP agreement is
5 pending, and who has been deemed eligible for or has sought an
6 eligibility determination for regional center services pursuant to
7 subdivision (a) of Section 4512, and for whom a determination of
8 eligibility for those regional center services has been made, and
9 for whom, prior to July 1, 2007, a maximum rate determination
10 has been requested and is pending, the rate shall be determined
11 through an individualized assessment and pursuant to subparagraph
12 (C) of paragraph (1) of subdivision (c) of Section 35333 of Title
13 22 of the California Code of Regulations as in effect on January
14 1, 2007, or the rate established in subdivision (b) of Section 11464,
15 whichever is greater. Once the rate has been set, it shall remain in
16 effect and may only be changed in accordance with Section 16119.
17 Other than the circumstances described in this clause, regional
18 centers shall not make maximum rate benefit determinations for
19 the AAP.

20 (3) Regional centers shall separately purchase or secure the
21 services contained in the child's IFSP or IPP, pursuant to Section
22 4684.

23 (4) Regulations adopted by the department pursuant to this
24 subdivision shall be adopted as emergency regulations in
25 accordance with Chapter 3.5 (commencing with Section 11340)
26 of Part 1 of Division 3 of Title 2 ~~or~~ of the Government Code, and
27 for the purposes of that chapter, including Section 11349.6 of the
28 Government Code, the adoption of these regulations is an
29 emergency and shall be considered by the Office of Administrative
30 Law as necessary for the immediate preservation of the public
31 peace, health, safety, and general welfare. The regulations
32 authorized by this paragraph shall remain in effect for no more
33 than 180 days, by which time final regulations shall be adopted.

34 (d) (1) In the event that a family signs an adoption assistance
35 agreement where a cash benefit is not awarded, the adopting family
36 shall be otherwise eligible to receive Medi-Cal benefits for the
37 child if it is determined that the benefits are needed pursuant to
38 this chapter.

39 (2) Regional centers shall separately purchase or secure the
40 services that are contained in the child's Individualized Family

1 Service Plan (IFSP) or Individual Program Plan (IPP) pursuant to
2 Section 4684.

3 (e) Subdivisions (a), (b), and (d) shall apply only to adoption
4 assistance agreements signed on or after October 1, 1992.

5 (f) This section shall supersede the requirements of subparagraph
6 (C) of paragraph (1) of Section 35333 of Title 22 of the California
7 Code of Regulations.

8 ~~SEC. 8.~~

9 *SEC. 10.* Section 16121.05 of the Welfare and Institutions
10 Code is amended to read:

11 16121.05. (a) The department may recover any overpayments
12 of financial assistance under the Adoption Assistance Program,
13 and shall develop regulations that establish the means to recoup
14 them, including an appropriate notice of action and appeal rights,
15 when the department determines either of the following applies:

16 (1) The adoptive parents are no longer legally responsible for
17 the support of the child.

18 (2) The child is no longer receiving support from the adoptive
19 family.

20 (3) The adoptive family has committed fraud in its application
21 for, or reassessment of, the adoption assistance.

22 (b) Children on whose behalf an adoption assistance agreement
23 had been executed prior to October 1, 1992, shall continue to
24 receive adoption assistance in accordance with the terms of that
25 agreement.

26 (c) Payment shall begin on or after the effective date of an
27 adoption assistance agreement, or a deferred adoption assistance
28 agreement, or a final decree of adoption, provided that the adoption
29 assistance agreement has been signed by all required parties prior
30 to or at the time the adoption decree is issued by the court. The
31 amount and duration of assistance shall not be changed without
32 the concurrence of the adoptive parents, unless any of the following
33 has occurred:

34 (1) The child has attained 18 years of age, or 21 years of age
35 where the child has a mental or physical disability that warrants
36 the continuation of assistance.

37 (2) The adoptive parents are no longer legally responsible for
38 the support of the child.

39 (3) The child is no longer receiving any support from adoptive
40 parents.

1 ~~SEC. 9.~~

2 ~~SEC. 11.~~ Section 16501.1 of the Welfare and Institutions Code
3 is amended to read:

4 16501.1. (a) (1) The Legislature finds and declares that the
5 foundation and central unifying tool in child welfare services is
6 the case plan.

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

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

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

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

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

30 (c) (1) If out-of-home placement is used to attain case plan
31 goals, the decision regarding choice of placement shall be based
32 upon selection of a safe setting that is the least restrictive or most
33 familylike and the most appropriate setting that is available and
34 in close proximity to the parent's home, proximity to the child's
35 school, consistent with the selection of the environment best suited
36 to meet the child's special needs and best interests, or both. The
37 selection shall consider, in order of priority, placement with
38 relatives, tribal members, and foster family, group care, and
39 residential treatment pursuant to Section 7950 of the Family Code.

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

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

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

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

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

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

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

1 The child shall be involved in developing the case plan as age and
2 developmentally appropriate.

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

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

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

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

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

39 (6) When out-of-home placement is made, the case plan shall
40 include provisions for the development and maintenance of sibling

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

14 (A) The death of an immediate relative.

15 (B) The birth of a sibling.

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

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

29 (8) Effective January 1, 2010, a case plan shall ensure the
30 educational stability of the child while in foster care and shall
31 include both of the following:

32 (A) An assurance that the placement takes into account the
33 appropriateness of the current educational setting and the proximity
34 to the school in which the child is enrolled at the time of placement.

35 (B) An assurance that the placement agency has coordinated
36 with appropriate local educational agencies to ensure that the child
37 remains in the school in which the child is enrolled at the time of
38 placement, or, if remaining in that school is not in the best interests
39 of the child, assurances by the placement agency and the local
40 educational agency to provide immediate and appropriate

1 enrollment in a new school and to provide all of the child's
2 educational records to the new school.

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

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

18 (10) If out-of-home services are used and the goal is
19 reunification, the case plan shall describe the services to be
20 provided to assist in reunification and the services to be provided
21 concurrently to achieve legal permanency if efforts to reunify fail.
22 The plan shall also consider in-state and out-of-state placements,
23 the importance of developing and maintaining sibling relationships
24 pursuant to Section 16002, and the desire and willingness of the
25 caregiver to provide legal permanency for the child if reunification
26 is unsuccessful.

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

37 (12) (A) Parents and legal guardians shall have an opportunity
38 to review the case plan, and to sign it whenever possible, and then
39 shall receive a copy of the plan. In any voluntary service or
40 placement agreement, the parents or legal guardians shall be

1 required to review and sign the case plan. Whenever possible,
2 parents and legal guardians shall participate in the development
3 of the case plan.

4 (B) Parents and legal guardians shall be advised that, pursuant
5 to Section 1228.1 of the Evidence Code, neither their signature on
6 the child welfare services case plan nor their acceptance of any
7 services prescribed in the child welfare services case plan shall
8 constitute an admission of guilt or be used as evidence against the
9 parent or legal guardian in a court of law. However, they shall also
10 be advised that the parent's or guardian's failure to cooperate,
11 except for good cause, in the provision of services specified in the
12 child welfare services case plan may be used in any hearing held
13 pursuant to Section 366.21 or 366.22 as evidence.

14 (13) A child shall be given a meaningful opportunity to
15 participate in the development of the case plan and state his or her
16 preference for foster care placement. A child who is 12 years of
17 age or older and in a permanent placement shall also be given the
18 opportunity to review the case plan, sign the case plan, and receive
19 a copy of the case plan.

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

28 (15) If the case plan has as its goal for the child a permanent
29 plan of adoption or placement in another permanent home, it shall
30 include a statement of the child's wishes regarding their permanent
31 placement plan and an assessment of those stated wishes. The
32 agency shall also include documentation of the steps the agency
33 is taking to find an adoptive family or other permanent living
34 arrangements for the child; to place the child with an adoptive
35 family, an appropriate and willing relative, a legal guardian, or in
36 another planned permanent living arrangement; and to finalize the
37 adoption or legal guardianship. At a minimum, the documentation
38 shall include child-specific recruitment efforts, such as the use of
39 state, regional, and national adoption exchanges, including

1 electronic exchange systems, when the child has been freed for
2 adoption.

3 (16) (A) When appropriate, for a child who is 16 years of age
4 or older, the case plan shall include a written description of the
5 programs and services that will help the child, consistent with the
6 child's best interests, prepare for the transition from foster care to
7 independent living. The case plan shall be developed with the child
8 and individuals identified as important to the child, and shall
9 include steps the agency is taking to ensure that the child has a
10 connection to a caring adult.

11 (B) During the 90-day period prior to the participant attaining
12 18 years of age or older as the state may elect under Section 475
13 (8)(B)(iii) (42 U.S.C. Sec. 675 (8)(B)(iii)) of the federal Social
14 Security Act, whether during that period foster care maintenance
15 payments are being made on the child's behalf or the child is
16 receiving benefits or services under Section 477 (42 U.S.C. Sec.
17 677) of the federal Social Security Act, a caseworker or other
18 appropriate agency staff or probation officer and other
19 representatives of the participant, as appropriate, shall address, in
20 the written transitional independent living plan, *that is personalized*
21 *at the direction of the child*, information as detailed as the
22 participant elects that shall include, but not be limited to, options
23 regarding housing, health insurance, education, local opportunities
24 for mentors and continuing support services, and workforce
25 supports and employment services.

26 (g) If the court finds, after considering the case plan, that
27 unsupervised sibling visitation is appropriate and has been
28 consented to, the court shall order that the child or the child's
29 siblings, the child's current caregiver, and the child's prospective
30 adoptive parents, if applicable, be provided with information
31 necessary to accomplish this visitation. This section does not
32 require or prohibit the social worker's facilitation, transportation,
33 or supervision of visits between the child and his or her siblings.

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

38 (i) When a child who is 10 years of age or older and who has
39 been in out-of-home placement for six months or longer, the case
40 plan shall include an identification of individuals, other than the

1 child's siblings, who are important to the child and actions
2 necessary to maintain the child's relationship with those
3 individuals, provided that those relationships are in the best interest
4 of the child. The social worker shall ask every child who is 10
5 years of age or older and who has been in out-of-home placement
6 for six months or longer to identify individuals other than the
7 child's siblings who are important to the child, and may ask any
8 other child to provide that information, as appropriate. The social
9 worker shall make efforts to identify other individuals who are
10 important to the child, consistent with the child's best interests.

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

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

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

26 ~~SEC. 9.5.~~

27 *SEC. 11.5.* Section 16501.1 of the Welfare and Institutions
28 Code is amended to read:

29 16501.1. (a) (1) The Legislature finds and declares that the
30 foundation and central unifying tool in child welfare services is
31 the case plan.

32 (2) The Legislature further finds and declares that a case plan
33 ensures that the child receives protection and safe and proper care
34 and case management, and that services are provided to the child
35 and parents or other caretakers, as appropriate, in order to improve
36 conditions in the parent's home, to facilitate the safe return of the
37 child to a safe home or the permanent placement of the child, and
38 to address the needs of the child while in foster care.

39 (b) (1) A case plan shall be based upon the principles of this
40 section and shall document that a preplacement assessment of the

1 service needs of the child and family, and preplacement preventive
2 services, have been provided, and that reasonable efforts to prevent
3 out-of-home placement have been made.

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

7 (3) (A) In determining the reasonable services to be offered or
8 provided, the case plan shall include information, to the extent
9 possible, about a parent's incarceration in a county jail or the state
10 prison during the time that a minor child of that parent is involved
11 in dependency care. Once a consistent data entry field or fields
12 have been designated in the statewide child welfare database, social
13 workers shall make reasonable efforts to collect and update
14 necessary data regarding a child's incarcerated parent or parents.

15 (B) In order to further the goals of this paragraph, the Legislature
16 encourages the State Department of Social Services to consult with
17 the county welfare directors regarding the best way to incorporate
18 the information specified in subparagraph (A) as a required field
19 in the statewide database. The Legislature also encourages the
20 Department of Justice, the Department of Corrections and
21 Rehabilitation, county welfare departments, and county sheriffs
22 to develop protocols for facilitating the exchange of information
23 regarding the location and sentencing of the incarcerated parent
24 or parents of a minor child who is in dependency care.

25 (C) Nothing in this paragraph shall be interpreted to require the
26 department to create a new dedicated field in the statewide database
27 for incorporating the information specified in subparagraph (A).

28 (4) Reasonable services shall be offered or provided to make it
29 possible for a child to return to a safe home environment, unless,
30 pursuant to subdivisions (b) and (e) of Section 361.5, the court
31 determines that reunification services shall not be provided.

32 (5) If reasonable services are not ordered, or are terminated,
33 reasonable efforts shall be made to place the child in a timely
34 manner in accordance with the permanent plan and to complete
35 all steps necessary to finalize the permanent placement of the child.

36 (c) (1) If out-of-home placement is used to attain case plan
37 goals, the decision regarding choice of placement shall be based
38 upon selection of a safe setting that is the least restrictive or most
39 familylike and the most appropriate setting that is available and
40 in close proximity to the parent's home, proximity to the child's

1 school, consistent with the selection of the environment best suited
2 to meet the child's special needs and best interests, or both. The
3 selection shall consider, in order of priority, placement with
4 relatives, tribal members, and foster family, group care, and
5 residential treatment pursuant to Section 7950 of the Family Code.

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

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

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

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

38 (e) The child welfare services case plan shall be comprehensive
39 enough to meet the juvenile court dependency proceedings

1 requirements pursuant to Article 6 (commencing with Section 300)
2 of Chapter 2 of Part 1 of Division 2.

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

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

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

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

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

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

39 (B) Information regarding any court-ordered visitation between
40 the child and the natural parents or legal guardians, and the terms

1 and conditions needed to facilitate the visits while protecting the
2 safety of the child, shall be provided to the child's out-of-home
3 caregiver as soon as possible after the court order is made.

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

19 (A) The death of an immediate relative.

20 (B) The birth of a sibling.

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

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

34 (8) Effective January 1, 2010, a case plan shall ensure the
35 educational stability of the child while in foster care and shall
36 include both of the following:

37 (A) An assurance that the placement takes into account the
38 appropriateness of the current educational setting and the proximity
39 to the school in which the child is enrolled at the time of placement.

1 (B) An assurance that the placement agency has coordinated
2 with appropriate local educational agencies to ensure that the child
3 remains in the school in which the child is enrolled at the time of
4 placement, or, if remaining in that school is not in the best interests
5 of the child, assurances by the placement agency and the local
6 educational agency to provide immediate and appropriate
7 enrollment in a new school and to provide all of the child's
8 educational records to the new school.

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

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

24 (10) If out-of-home services are used and the goal is
25 reunification, the case plan shall describe the services to be
26 provided to assist in reunification and the services to be provided
27 concurrently to achieve legal permanency if efforts to reunify fail.
28 The plan shall also consider in-state and out-of-state placements,
29 the importance of developing and maintaining sibling relationships
30 pursuant to Section 16002, and the desire and willingness of the
31 caregiver to provide legal permanency for the child if reunification
32 is unsuccessful.

33 (11) If out-of-home services are used, the child has been in care
34 for at least 12 months, and the goal is not adoptive placement, the
35 case plan shall include documentation of the compelling reason
36 or reasons why termination of parental rights is not in the child's
37 best interest. A determination completed or updated within the
38 past 12 months by the department when it is acting as an adoption
39 agency or by a licensed adoption agency that it is unlikely that the
40 child will be adopted, or that one of the conditions described in

1 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
2 be deemed a compelling reason.

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

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

20 (13) A child shall be given a meaningful opportunity to
21 participate in the development of the case plan and state his or her
22 preference for foster care placement. A child who is 12 years of
23 age or older and in a permanent placement shall also be given the
24 opportunity to review the case plan, sign the case plan, and receive
25 a copy of the case plan.

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

34 (15) If the case plan has as its goal for the child a permanent
35 plan of adoption or placement in another permanent home, it shall
36 include a statement of the child's wishes regarding their permanent
37 placement plan and an assessment of those stated wishes. The
38 agency shall also include documentation of the steps the agency
39 is taking to find an adoptive family or other permanent living
40 arrangements for the child; to place the child with an adoptive

1 family, an appropriate and willing relative, a legal guardian, or in
2 another planned permanent living arrangement; and to finalize the
3 adoption or legal guardianship. At a minimum, the documentation
4 shall include child-specific recruitment efforts, such as the use of
5 state, regional, and national adoption exchanges, including
6 electronic exchange systems, when the child has been freed for
7 adoption.

8 (16) (A) When appropriate, for a child who is 16 years of age
9 or older, the case plan shall include a written description of the
10 programs and services that will help the child, consistent with the
11 child's best interests, prepare for the transition from foster care to
12 independent living. The case plan shall be developed with the child
13 and individuals identified as important to the child, and shall
14 include steps the agency is taking to ensure that the child has a
15 connection to a caring adult.

16 (B) During the 90-day period prior to the participant attaining
17 18 years of age or older as the state may elect under Section 475
18 (8)(B)(iii) (42 U.S.C. Sec. 675 (8)(B)(iii)) of the federal Social
19 Security Act, whether during that period foster care maintenance
20 payments are being made on the child's behalf or the child is
21 receiving benefits or services under Section 477 (42 U.S.C. Sec.
22 677) of the federal Social Security Act, a caseworker or other
23 appropriate agency staff or probation officer and other
24 representatives of the participant, as appropriate, must address, in
25 the written transitional independent living plan, *that is personalized*
26 *at the direction of the child*, information as detailed as the
27 participant elects that shall include, but not be limited to, options
28 regarding housing, health insurance, education, local opportunities
29 for mentors and continuing support services, and workforce
30 supports and employment services.

31 (g) If the court finds, after considering the case plan, that
32 unsupervised sibling visitation is appropriate and has been
33 consented to, the court shall order that the child or the child's
34 siblings, the child's current caregiver, and the child's prospective
35 adoptive parents, if applicable, be provided with information
36 necessary to accomplish this visitation. This section does not
37 require or prohibit the social worker's facilitation, transportation,
38 or supervision of visits between the child and his or her siblings.

39 (h) The case plan documentation on sibling placements required
40 under this section shall not require modification of existing case

1 plan forms until the Child Welfare Services Case Management
2 System is implemented on a statewide basis.

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

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

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

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

31 ~~SEC. 10.~~

32 *SEC. 12.* Section ~~5.5~~ 7.5 of this bill incorporates amendments
33 to Section 16119 of the Welfare and Institutions Code proposed
34 by both this bill and AB 154. It shall only become operative if (1)
35 both bills are enacted and become effective on or before January
36 1, 2010, (2) each bill amends Section 16119 of the Welfare and
37 Institutions Code, and (3) this bill is enacted after AB 154, in which
38 case Section ~~5~~ 7 of this bill shall not become operative.

1 ~~SEC. 11.~~

2 *SEC. 13.* Section ~~9-5~~ 11.5 of this bill incorporates amendments
3 to Section 16501.1 of the Welfare and Institutions Code proposed
4 by both this bill and SB 118. It shall only become operative if (1)
5 both bills are enacted and become effective on or before January
6 1, 2010, (2) each bill amends Section 16501.1 of the Welfare and
7 Institutions Code, and (3) this bill is enacted after SB 118, in which
8 case Section ~~9~~ 11 of this bill shall not become operative.

9 ~~SEC. 12.~~ If the Commission on State Mandates determines
10 that this act contains costs mandated by the state, reimbursement
11 to local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.

14 *SEC. 14.* No appropriation pursuant to Section 15200 of the
15 Welfare and Institutions Code shall be made for the purpose of
16 implementing this act.

17 *SEC. 15.* No reimbursement is required by this act pursuant
18 to Section 6 of Article XIII B of the California Constitution for
19 certain costs that may be incurred by a local agency or school
20 district because, in that regard, this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

26 However, if the Commission on State Mandates determines that
27 this act contains other costs mandated by the state, reimbursement
28 to local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.