

AMENDED IN SENATE AUGUST 22, 2012
AMENDED IN SENATE AUGUST 6, 2012
AMENDED IN SENATE JUNE 21, 2012
AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY APRIL 26, 2012
AMENDED IN ASSEMBLY MARCH 21, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1712

Introduced by Assembly Member Beall

February 16, 2012

An act to amend ~~Section 51225.3 of the Education Code~~, to amend Section 17552 of the Family Code, to amend Sections 1502, 1505, and 1559.110 of the Health and Safety Code, to amend Section 11170 of the Penal Code, and to amend Sections 17.1, 101, 102, 107, 295, 303, 317, 361, 361.5, 366, 366.21, 366.22, 366.24, 366.25, 366.26, 366.3, 369.5, 375, 388, 903.4, 903.5, 11253, 11263.5, ~~11361, 11362~~, 11363, 11364, 11386, 11387, 11391, 11400, 11402.2, 11403, 11403.2, ~~11405~~, 16002.5, 16010, 16120, 16120.1, 16122, 16123, 16501, 16501.1, 16501.3, 16503.5, 16507, 16508, 16514, 16521.5, 16522, 16522.1, 18251, 18964, and 18986.46 of, to add Sections 361.6, 362.5, 366.32, *and* 727.25, ~~and 11363.1~~ to, and to repeal and add Section 366.31 of, the Welfare and Institutions Code, relating to foster care placements, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1712, as amended, Beall. Minors and nonminor dependents: out-of-home placement.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to the provision of cash assistance and other services to and for the benefit of certain foster and adopted children, and other children who have been placed in out-of-home care, including children who receive Aid to Families with Dependent Children-Foster Care (AFDC-FC), Adoption Assistance Program, California Work Opportunity and Responsibility to Kids (CalWORKs), and Kinship Guardianship Assistance Payment Program (Kin-GAP) benefits. Among other provisions, the act extends specified foster care benefits to youth up to 19, 20, and 21 years of age, described as nonminor dependents, if specified conditions are met, commencing January 1, 2012.

This bill also would make a nonminor dependent who has been receiving specified aid, as described above, between January 1, 2012, and December 31, 2012, and who attains 19 years of age prior to January 1, 2013, eligible to continue to receive that aid, notwithstanding the age limitations in existing law, provided that the nonminor dependent continues to meet all other applicable eligibility requirements. Because moneys are continuously appropriated from the General Fund to defray a portion of the state's share of AFDC-FC benefits, the bill would make an appropriation, and also would impose a state-mandated local program by increasing county duties.

This bill would extend the date by which the State Department of Social Services is required to develop certain regulations to implement the extension of the above-described benefits to nonminor dependents, from July 1, 2012 to July 1, 2013.

This bill would provide that a nonminor former dependent or ward, as defined, is eligible for AFDC-FC benefits up to 21 years of age if specified conditions are met.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of various community care facilities, as defined. Violation of the act is a misdemeanor.

Existing law defines Transitional Housing Placement Plus (THP-Plus) Foster Care as a placement that offers supervised housing opportunities and supportive services to eligible nonminor dependents, as specified.

Existing law excludes THP-Plus Foster Care from the definition of a community care facility.

This bill would include THP-Plus Foster Care within the definition of a community care facility for purposes of the Community Care Facilities Act. By expanding application of the act, this bill would expand the scope of an existing crime, thus imposing a state-mandated local program. The bill would delete existing separate fingerprinting requirements applicable to THP-Plus Foster Care providers, making those providers subject to the background check information generally applicable to community care facilities.

Existing law determines the county of residence of a minor child, as specified.

This bill would determine the county of residence of a nonminor dependent under the original or resumed dependency jurisdiction or transition jurisdiction of the juvenile court.

Existing law requires the Judicial Council to establish a court-appointed special advocate (CASA) program, pursuant to which volunteer CASAs provide designated services and support to children under the jurisdiction of the juvenile court.

This bill would make nonminor dependents eligible for the CASA program.

Existing law authorizes payment of CalWORKs aid to a nonminor dependent placed in the approved home of a relative, as specified, if the nonminor dependent is involved in certain educational or employment activities.

This bill would authorize the CalWORKs payments described above to be made out of state when the nonminor dependent is placed in the approved home of a relative who resides in another state. Because moneys are continuously appropriated from the General Fund to defray a portion of county costs under the CalWORKs program, by expanding eligibility for CalWORKs, the bill would make an appropriation. In addition, by increasing county duties, the bill would impose a state-mandated local program.

This bill would revise the provisions relating to state-funded and federally funded Kin-GAP payments, and would make Kin-GAP and Adoption Assistance Program payments for nonminor former dependents between 20 and 21 years of age contingent upon appropriations by the Legislature. The bill would expand the definition of a relative for purposes of the federally funded Kin-GAP program. The bill also would revise various definitions applicable to the AFDC-FC program relating

to nonminor dependents and transitional housing services. The bill would specify that certain health and education information required to be provided for a foster child would only be provided with respect to a nonminor dependent with his or her written consent.

This bill would extend access to public health nursing services under the statewide child welfare services program, and designated placement services and family reunification services to nonminor dependents, as specified. By increasing duties of county welfare departments, the bill would impose a state-mandated local program.

Existing law requires a court that continues dependency jurisdiction with respect to a nonminor dependent to order development of a planned permanent living arrangement, under a mutual agreement, as defined.

This bill would revise the definition of mutual agreement, by specifying the criteria of these agreements applicable to nonminor dependents, and nonminor former dependents and wards, who are in receipt of Kin-GAP and AFDC-FC payments, respectively. The bill also would make conforming changes to related provisions and definitions.

Existing law provides that the extension of AAP benefits to nonminor or former dependents between 20 and 21 years of age is contingent upon an appropriation by the Legislature.

This bill would delete that contingency. Because funds are continuously appropriated for the placement of hard-to-place adoptive children, this bill would make an appropriation. To the extent that it would increase the duties of county placing agencies, the bill would impose a state mandated local program.

This bill would expand certain provisions relating to proceedings of the juvenile court to include nonminor dependents, and would make related changes.

Existing law requires the social worker or probation officer to give notice of review hearings in specified dependency proceedings to certain individuals, including the child, any known siblings of the child, and the child's caregiver. Under existing law, a child's caregiver may attend the review hearings and submit any relevant written information to the court.

This bill would require the social worker or probation officer to give notice of review hearings and termination of jurisdiction hearings in specified dependency proceedings to a nonminor dependent, any known siblings of the nonminor dependent, and the current caregiver of the nonminor dependent. Additionally, the bill would authorize the caregiver

of the nonminor dependent to attend the hearings and to submit relevant written information for filing and distribution to the parties and attorneys. By imposing new duties on social workers and probation officers, this bill would impose a state-mandated local program.

Under existing law, the juvenile court may retain jurisdiction over a dependent child until the dependent child is 21 years of age. Existing law further provides that the juvenile court's jurisdiction includes nonminor dependents. Under existing law, the juvenile court may terminate dependency, delinquency, or transition jurisdiction over a nonminor dependent while the nonminor dependent is between 18 and 21 years of age. The juvenile court retains general jurisdiction over a nonminor dependent for purposes of a petition to modify a dependency court order.

This bill would authorize the dependency court to order adult adoption as the permanent plan for a nonminor dependent, and to terminate its jurisdiction over a nonminor dependent following a final adult adoption. The bill would further authorize court-ordered family reunification services to continue for a nonminor dependent who attains 18 years of age during the review hearing time period until the next 6-month review hearing, if all parties agree that family reunification is in the best interests of the nonminor dependent and that there is a substantial probability that the nonminor dependent will be returned home at or before the next review hearing. This bill would provide that the provision of these services would not affect the nonminor dependant's eligibility for extended foster care benefits. This bill would also make clarifying changes to reflect that the dependency court may retain jurisdiction over a nonminor in long-term foster care or a planned permanent living arrangement as a nonminor dependent.

Existing law governs the placement of children who are or who may be Indian children, as specified. Existing law provides for tribal customary adoption as one placement option for Indian children in dependency proceedings. Additionally, existing law prohibits a dependency court from holding a hearing to terminate parental rights for a nonminor dependent.

This bill would clarify that a dependency court may order tribal customary adoption as the permanent plan for a nonminor dependent who is an Indian child. Additionally, the bill would permit the dependency court to hold a hearing to terminate parental rights for a nonminor dependent who is an Indian child if tribal customary adoption is the permanent plan.

Existing law requires county child welfare departments to determine whether, in specified dependency cases, it is in the best interests of the child or nonminor to have the case referred to the local child support agency for child support services. Existing law specifies that a nonminor dependent over 19 years of age is not a child for purposes of referral to the local child support agency.

This bill would provide that a minor or nonminor dependent who has a minor child placed in the same facility is not a parent for purposes of referral to the local child support agency for collection or enforcement of child support. The bill would also clarify that these provisions apply in the case of voluntary placements and minor children placed with a minor or nonminor dependent parent.

Existing law imposes parental liability for the cost of the care, support, and maintenance of a child in a county institution or other placement following a juvenile court order removing the child from the home or voluntary placement of the child in out-of-home care by the parent under specified circumstances. Under existing law, the local child support agency may petition the court for an order to show cause to recover those costs, unless the agency determines that it would not be appropriate or cost effective to do so.

This bill would provide that a nonminor dependent who is a custodial or noncustodial parent of a child in a foster care placement, including voluntary foster care placement, is not financially liable for the cost of the care, support, and maintenance of the child.

This bill would authorize the State Department of Social Services to implement the bill by all-county letters or similar instructions, pending the adoption of regulations. The bill would require the department to consult with concerned stakeholders, as specified, in developing the regulations.

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

This bill would provide that 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.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

1 ~~SECTION 1. Section 51225.3 of the Education Code, as~~
2 ~~amended by Section 3 of Chapter 621 of the Statutes of 2011, is~~
3 ~~amended to read:~~

4 ~~51225.3. (a) A pupil shall complete all of the following while~~
5 ~~in grades 9 to 12, inclusive, in order to receive a diploma of~~
6 ~~graduation from high school:~~

7 ~~(1) At least the following numbers of courses in the subjects~~
8 ~~specified, each course having a duration of one year, unless~~
9 ~~otherwise specified:~~

10 ~~(A) Three courses in English.~~

11 ~~(B) Two courses in mathematics.~~

12 ~~(C) Two courses in science, including biological and physical~~
13 ~~sciences.~~

14 ~~(D) Three courses in social studies, including United States~~
15 ~~history and geography; world history, culture, and geography; a~~
16 ~~one-semester course in American government and civics; and a~~
17 ~~one-semester course in economics.~~

18 ~~(E) One course in visual or performing arts, foreign language,~~
19 ~~or, commencing with the 2012–13 school year, career technical~~
20 ~~education.~~

21 ~~(i) For purposes of satisfying the requirement specified in this~~
22 ~~subparagraph, a course in American Sign Language shall be~~
23 ~~deemed a course in foreign language.~~

24 ~~(ii) For purposes of this subparagraph, “a course in career~~
25 ~~technical education” means a course in a district-operated career~~
26 ~~technical education program that is aligned to the career technical~~
27 ~~model curriculum standards and framework adopted by the state~~
28 ~~board, including courses through a regional occupational center~~
29 ~~or program operated by a county superintendent of schools or~~
30 ~~pursuant to a joint powers agreement.~~

1 ~~(iii) This subparagraph does not require a school or school~~
2 ~~district that currently does not offer career technical education~~
3 ~~courses to start new career technical education programs for~~
4 ~~purposes of this section.~~

5 ~~(iv) If a school district or county office of education elects to~~
6 ~~allow a career technical education course to satisfy the requirement~~
7 ~~imposed by this subparagraph, the governing board of the school~~
8 ~~district or county office of education, prior to offering that~~
9 ~~alternative to pupils, shall notify parents, teachers, pupils, and the~~
10 ~~public at a regularly scheduled meeting of the governing board of~~
11 ~~all of the following:~~

12 ~~(I) The intent to offer career technical education courses to fulfill~~
13 ~~the graduation requirement specified in this subparagraph.~~

14 ~~(II) The impact that offering career technical education courses,~~
15 ~~pursuant to this subparagraph, will have on the availability of~~
16 ~~courses that meet the eligibility requirements for admission to the~~
17 ~~California State University and the University of California, and~~
18 ~~whether the career technical education courses to be offered~~
19 ~~pursuant to this subparagraph are approved to satisfy those~~
20 ~~eligibility requirements. If a school district elects to allow a career~~
21 ~~technical education course to satisfy the requirement imposed by~~
22 ~~this subparagraph, the school district shall comply with subdivision~~
23 ~~(m) of Section 48980.~~

24 ~~(III) The distinction, if any, between the high school graduation~~
25 ~~requirements of the school district or county office of education,~~
26 ~~and the eligibility requirements for admission to the California~~
27 ~~State University and the University of California.~~

28 ~~(F) Two courses in physical education, unless the pupil has been~~
29 ~~exempted pursuant to the provisions of this code.~~

30 ~~(2) Other coursework requirements adopted by the governing~~
31 ~~board of the school district.~~

32 ~~(b) The governing board, with the active involvement of parents,~~
33 ~~administrators, teachers, and pupils, shall adopt alternative means~~
34 ~~for pupils to complete the prescribed course of study that may~~
35 ~~include practical demonstration of skills and competencies,~~
36 ~~supervised work experience or other outside school experience,~~
37 ~~career technical education classes offered in high schools, courses~~
38 ~~offered by regional occupational centers or programs,~~
39 ~~interdisciplinary study, independent study, and credit earned at a~~
40 ~~postsecondary institution. Requirements for graduation and~~

1 specified alternative modes for completing the prescribed course
2 of study shall be made available to pupils, parents, and the public.

3 (e) ~~Notwithstanding any other law, a school district shall exempt
4 a pupil in foster care from all coursework and other requirements
5 adopted by the governing board of the district that are in addition
6 to the statewide coursework requirements specified in this section
7 if the pupil, while he or she is in grade 11 or 12, transfers into the
8 district from another school district or between high schools within
9 the district, unless the district makes a finding that the pupil is
10 reasonably able to complete the additional requirements in time
11 to graduate from high school by the end of the pupil's fourth year
12 of high school. A school district shall notify a pupil in foster care
13 who is granted an exemption pursuant to this subdivision, and, as
14 appropriate, the person holding the right to make educational
15 decisions for the pupil, if any of the requirements that are waived
16 will affect the pupil's ability to gain admission to a postsecondary
17 educational institution and shall provide information about transfer
18 opportunities available through the California Community
19 Colleges.~~

20 (d) ~~On or before July 1, 2017, the department shall submit a
21 comprehensive report to the appropriate policy committees of the
22 Legislature on the addition of career technical education courses
23 to satisfy the requirement specified in subparagraph (E) of
24 paragraph (1) of subdivision (a), including, but not limited to, the
25 following information:~~

26 (1) ~~A comparison of the pupil enrollment in career technical
27 education courses, foreign language courses, and visual and
28 performing arts courses for the 2005–06 to 2011–12 school years,
29 inclusive, to the pupil enrollment in career technical education
30 courses, foreign language courses, and visual and performing arts
31 courses for the 2012–13 to 2016–17 school years, inclusive.~~

32 (2) ~~The reasons, reported by school districts, that pupils give
33 for choosing to enroll in a career technical education course to
34 satisfy the requirement specified in subparagraph (E) of paragraph
35 (1) of subdivision (a).~~

36 (3) ~~The type and number of career technical education courses
37 that were conducted for the 2005–06 to 2011–12 school years,
38 inclusive, compared to the type and number of career technical
39 education courses that were conducted for the 2012–13 to 2016–17
40 school years, inclusive.~~

1 ~~(4) The number of career technical education courses that~~
2 ~~satisfied the subject matter requirements for admission to the~~
3 ~~University of California or the California State University.~~

4 ~~(5) The extent to which the career technical education courses~~
5 ~~chosen by pupils are aligned with the California Career Technical~~
6 ~~Education Standards, and prepare pupils for employment, advanced~~
7 ~~training, and postsecondary education.~~

8 ~~(6) The number of career technical education courses that also~~
9 ~~satisfy the visual and performing arts requirement, and the number~~
10 ~~of career technical education courses that also satisfy the foreign~~
11 ~~language requirement.~~

12 ~~(7) Annual pupil dropout and graduation rates for the 2011–12~~
13 ~~to 2014–15 school years, inclusive.~~

14 ~~(e) For purposes of completing the report described in~~
15 ~~subdivision (d), the Superintendent may use existing state resources~~
16 ~~and federal funds. If state or federal funds are not available or~~
17 ~~sufficient, the Superintendent may apply for and accept grants,~~
18 ~~and receive donations and other financial support from public or~~
19 ~~private sources for purposes of this section.~~

20 ~~(f) For purposes of completing the report described in~~
21 ~~subdivision (d), the Superintendent may accept support, including,~~
22 ~~but not limited to, financial and technical support, from high school~~
23 ~~reform advocates, teachers, chamber organizations, industry~~
24 ~~representatives, research centers, parents, and pupils.~~

25 ~~(g) This section shall become inoperative on the earlier of the~~
26 ~~following two dates:~~

27 ~~(1) On July 1, immediately following the first fiscal year after~~
28 ~~the enactment of the act that adds this paragraph in which the~~
29 ~~number of career technical education courses that, as determined~~
30 ~~by the department, satisfy the foreign language requirement for~~
31 ~~admission to the California State University and the University of~~
32 ~~California is at least twice the number of career technical education~~
33 ~~courses that meet these admission requirements as of January 1,~~
34 ~~2012. This section shall be repealed on the following January 1,~~
35 ~~unless a later enacted statute, that becomes operative on or before~~
36 ~~that date, deletes or extends the dates on which it becomes~~
37 ~~inoperative and is repealed. It is the intent of the Legislature that~~
38 ~~new career technical education courses that satisfy the foreign~~
39 ~~language requirement for admission to the California State~~
40 ~~University and the University of California focus on world~~

1 languages aligned with career preparation, emphasizing real-world
2 application and technical content in related career and technical
3 education courses.

4 ~~(2) On July 1, 2017, and, as of January 1, 2018, is repealed,~~
5 ~~unless a later enacted statute, that becomes operative on or before~~
6 ~~January 1, 2018, deletes or extends the dates on which it becomes~~
7 ~~inoperative and is repealed.~~

8 ~~SEC. 2.— Section 51225.3 of the Education Code, as added by~~
9 ~~Section 4 of Chapter 621 of the Statutes of 2011, is amended to~~
10 ~~read:~~

11 ~~51225.3. (a) A pupil shall complete all of the following while~~
12 ~~in grades 9 to 12, inclusive, in order to receive a diploma of~~
13 ~~graduation from high school:~~

14 ~~(1) At least the following numbers of courses in the subjects~~
15 ~~specified, each course having a duration of one year, unless~~
16 ~~otherwise specified:~~

17 ~~(A) Three courses in English.~~

18 ~~(B) Two courses in mathematics.~~

19 ~~(C) Two courses in science, including biological and physical~~
20 ~~sciences.~~

21 ~~(D) Three courses in social studies, including United States~~
22 ~~history and geography; world history, culture, and geography; a~~
23 ~~one-semester course in American government and civics; and a~~
24 ~~one-semester course in economics.~~

25 ~~(E) One course in visual or performing arts or foreign language.~~
26 ~~For purposes of satisfying the requirement specified in this~~
27 ~~subparagraph, a course in American Sign Language shall be~~
28 ~~deemed a course in foreign language.~~

29 ~~(F) Two courses in physical education, unless the pupil has been~~
30 ~~exempted pursuant to the provisions of this code.~~

31 ~~(2) Other coursework requirements adopted by the governing~~
32 ~~board of the school district.~~

33 ~~(b) The governing board, with the active involvement of parents,~~
34 ~~administrators, teachers, and pupils, shall adopt alternative means~~
35 ~~for pupils to complete the prescribed course of study that may~~
36 ~~include practical demonstration of skills and competencies,~~
37 ~~supervised work experience or other outside school experience,~~
38 ~~career technical education classes offered in high schools, courses~~
39 ~~offered by regional occupational centers or programs,~~
40 ~~interdisciplinary study, independent study, and credit earned at a~~

1 postsecondary institution. Requirements for graduation and
2 specified alternative modes for completing the prescribed course
3 of study shall be made available to pupils, parents, and the public.

4 (e) Notwithstanding any other law, a school district shall exempt
5 a pupil in foster care from all coursework and other requirements
6 adopted by the governing board of the district that are in addition
7 to the statewide coursework requirements specified in this section
8 if the pupil, while he or she is in grade 11 or 12, transfers into the
9 district from another school district or between high schools within
10 the district, unless the district makes a finding that the pupil is
11 reasonably able to complete the additional requirements in time
12 to graduate from high school by the end of the pupil's fourth year
13 of high school. A school district shall notify a pupil in foster care
14 who is granted an exemption pursuant to this subdivision, and, as
15 appropriate, the person holding the right to make educational
16 decisions for the pupil, if any of the requirements that are waived
17 will affect the pupil's ability to gain admission to a postsecondary
18 educational institution and shall provide information about transfer
19 opportunities available through the California Community
20 Colleges.

21 (d) If a pupil completed a career technical education course that
22 met the requirements of subparagraph (E) of paragraph (1) of
23 subdivision (a) of Section 51225.3, as amended by the act adding
24 this section, prior to the inoperative date of that section, that course
25 shall be deemed to fulfill the requirements of subparagraph (E) of
26 paragraph (1) of subdivision (a) of this section.

27 (e) This section shall become operative upon the date that
28 Section 51225.3, as amended by the act adding this section,
29 becomes inoperative.

30 *SECTION 1. This act is titled and may be cited as 2011*
31 *Realignment Legislation.*

32 *SEC. 3.*

33 *SEC. 2.* Section 17552 of the Family Code is amended to read:
34 17552. (a) The State Department of Social Services, in
35 consultation with the Department of Child Support Services, shall
36 promulgate regulations by which the county child welfare
37 department, in any case of separation or desertion of a parent or
38 parents from a child that results in foster care assistance payments
39 under Section 11400 of, or a voluntary placement under Section
40 11401.1 of, or the payments for a minor child placed in the same

1 home as a minor or nonminor dependent parent under Section
2 11401.4 of, the Welfare and Institution Code, or CalWORKs
3 payments to a caretaker relative of a child who comes within the
4 jurisdiction of the juvenile court under Section 300, 601, or 602
5 of the Welfare and Institutions Code, who has been removed from
6 the parental home and placed with the caretaker relative by court
7 order, and who is under the supervision of the county child welfare
8 agency or probation department under Section 11250 of, or
9 Kin-GAP payments under Article 4.5 (commencing with Section
10 11360) or Article 4.7 (commencing with Section 11385) of, or aid
11 under subdivision (c) of Section 10101 of, the Welfare and
12 Institutions Code, shall determine whether it is in the best interests
13 of the child or nonminor to have the case referred to the local child
14 support agency for child support services. If reunification services
15 are not offered or are terminated, the case may be referred to the
16 local child support agency, unless the child's permanent plan is
17 legal guardianship with a relative who is receiving Kin-GAP and
18 the payment of support by the parent may compromise the stability
19 of the current placement with the related guardian, or the permanent
20 plan is transitional foster care for the nonminor under Section
21 11403 of the Welfare and Institutions Code. In making the
22 determination, the department regulations shall provide the factors
23 the county child welfare department shall consider, including:

24 (1) Whether the payment of support by the parent will pose a
25 barrier to the proposed reunification, in that the payment of support
26 will compromise the parent's ability to meet the requirements of
27 the parent's reunification plan.

28 (2) Whether the payment of support by the parent will pose a
29 barrier to the proposed reunification in that the payment of support
30 will compromise the parent's current or future ability to meet the
31 financial needs of the child.

32 (b) The department regulations shall provide that, where the
33 county child welfare department determines that it is not in the
34 best interests of the child to seek a support order against the parent,
35 the county child welfare department shall refrain from referring
36 the case to the local child support agency. The regulations shall
37 define those circumstances in which it is not in the best interest of
38 the child to refer the case to the local child support agency.

39 (c) The department regulations shall provide, where the county
40 child welfare department determines that it is not in the child's

1 best interest to have his or her case referred to the local child
2 support agency, the county child welfare department shall review
3 that determination periodically to coincide with the redetermination
4 of AFDC-FC eligibility under Section 11401.5 of, or the
5 CalWORKs eligibility under Section 11265 of, or Kin-GAP
6 eligibility under Article 4.5 (commencing with Section 11360) or
7 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part
8 3 of Division 9 of, the Welfare and Institutions Code, and shall
9 refer the child's case to the local child support agency upon a
10 determination that, due to a change in the child's circumstances,
11 it is no longer contrary to the child's best interests to have his or
12 her case referred to the local child support agency.

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

16 (e) Notwithstanding any other provision of law, a nonminor
17 dependent, as described in subdivision (v) of Section 11400 of the
18 Welfare and Institutions Code, who is over 19 years of age, is not
19 a child for purposes of referral to the local child support agency
20 for collection or enforcement of child support.

21 (f) Notwithstanding any other law, a minor or a nonminor
22 dependent, as defined in subdivision (v) of Section 11400 of the
23 Welfare and Institutions Code, who has a minor child placed in
24 the same licensed or approved facility pursuant to Section 11401.4
25 of the Welfare and Institutions Code is not a parent for purposes
26 of referral to the local child support agency for collection or
27 enforcement of child support.

28 ~~SEC. 4.~~

29 *SEC. 3.* Section 1502 of the Health and Safety Code is amended
30 to read:

31 1502. As used in this chapter:

32 (a) "Community care facility" means any facility, place, or
33 building that is maintained and operated to provide nonmedical
34 residential care, day treatment, adult day care, or foster family
35 agency services for children, adults, or children and adults,
36 including, but not limited to, the physically handicapped, mentally
37 impaired, incompetent persons, and abused or neglected children,
38 and includes the following:

39 (1) "Residential facility" means any family home, group care
40 facility, or similar facility determined by the director, for 24-hour

1 nonmedical care of persons in need of personal services,
2 supervision, or assistance essential for sustaining the activities of
3 daily living or for the protection of the individual.

4 (2) “Adult day program” means any community-based facility
5 or program that provides care to persons 18 years of age or older
6 in need of personal services, supervision, or assistance essential
7 for sustaining the activities of daily living or for the protection of
8 these individuals on less than a 24-hour basis.

9 (3) “Therapeutic day services facility” means any facility that
10 provides nonmedical care, counseling, educational or vocational
11 support, or social rehabilitation services on less than a 24-hour
12 basis to persons under 18 years of age who would otherwise be
13 placed in foster care or who are returning to families from foster
14 care. Program standards for these facilities shall be developed by
15 the department, pursuant to Section 1530, in consultation with
16 therapeutic day services and foster care providers.

17 (4) “Foster family agency” means any organization engaged in
18 the recruiting, certifying, and training of, and providing
19 professional support to, foster parents, or in finding homes or other
20 places for placement of children for temporary or permanent care
21 who require that level of care as an alternative to a group home.
22 Private foster family agencies shall be organized and operated on
23 a nonprofit basis.

24 (5) “Foster family home” means any residential facility
25 providing 24-hour care for six or fewer foster children that is
26 owned, leased, or rented and is the residence of the foster parent
27 or parents, including their family, in whose care the foster children
28 have been placed. The placement may be by a public or private
29 child placement agency or by a court order, or by voluntary
30 placement by a parent, parents, or guardian. It also means a foster
31 family home described in Section 1505.2.

32 (6) “Small family home” means any residential facility, in the
33 licensee’s family residence, that provides 24-hour care for six or
34 fewer foster children who have mental disorders or developmental
35 or physical disabilities and who require special care and supervision
36 as a result of their disabilities. A small family home may accept
37 children with special health care needs, pursuant to subdivision
38 (a) of Section 17710 of the Welfare and Institutions Code. In
39 addition to placing children with special health care needs, the

1 department may approve placement of children without special
2 health care needs, up to the licensed capacity.

3 (7) “Social rehabilitation facility” means any residential facility
4 that provides social rehabilitation services for no longer than 18
5 months in a group setting to adults recovering from mental illness
6 who temporarily need assistance, guidance, or counseling. Program
7 components shall be subject to program standards pursuant to
8 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
9 2 of Division 5 of the Welfare and Institutions Code.

10 (8) “Community treatment facility” means any residential
11 facility that provides mental health treatment services to children
12 in a group setting and that has the capacity to provide secure
13 containment. Program components shall be subject to program
14 standards developed and enforced by the State Department of
15 Mental Health pursuant to Section 4094 of the Welfare and
16 Institutions Code.

17 Nothing in this section shall be construed to prohibit or
18 discourage placement of persons who have mental or physical
19 disabilities into any category of community care facility that meets
20 the needs of the individual placed, if the placement is consistent
21 with the licensing regulations of the department.

22 (9) “Full-service adoption agency” means any licensed entity
23 engaged in the business of providing adoption services, that does
24 all of the following:

25 (A) Assumes care, custody, and control of a child through
26 relinquishment of the child to the agency or involuntary termination
27 of parental rights to the child.

28 (B) Assesses the birth parents, prospective adoptive parents, or
29 child.

30 (C) Places children for adoption.

31 (D) Supervises adoptive placements.

32 Private full-service adoption agencies shall be organized and
33 operated on a nonprofit basis. As a condition of licensure to provide
34 intercountry adoption services, a full-service adoption agency shall
35 be accredited and in good standing according to Part 96 of Title
36 22 of the Code of Federal Regulations, or supervised by an
37 accredited primary provider, or acting as an exempted provider,
38 in compliance with Subpart F (commencing with Section 96.29)
39 of Part 96 of Title 22 of the Code of Federal Regulations.

1 (10) “Noncustodial adoption agency” means any licensed entity
2 engaged in the business of providing adoption services, that does
3 all of the following:

4 (A) Assesses the prospective adoptive parents.

5 (B) Cooperatively matches children freed for adoption, who are
6 under the care, custody, and control of a licensed adoption agency,
7 for adoption, with assessed and approved adoptive applicants.

8 (C) Cooperatively supervises adoptive placements with a
9 full-service adoptive agency, but does not disrupt a placement or
10 remove a child from a placement.

11 Private noncustodial adoption agencies shall be organized and
12 operated on a nonprofit basis. As a condition of licensure to provide
13 intercountry adoption services, a noncustodial adoption agency
14 shall be accredited and in good standing according to Part 96 of
15 Title 22 of the Code of Federal Regulations, or supervised by an
16 accredited primary provider, or acting as an exempted provider,
17 in compliance with Subpart F (commencing with Section 96.29)
18 of Part 96 of Title 22 of the Code of Federal Regulations.

19 (11) “Transitional shelter care facility” means any group care
20 facility that provides for 24-hour nonmedical care of persons in
21 need of personal services, supervision, or assistance essential for
22 sustaining the activities of daily living or for the protection of the
23 individual. Program components shall be subject to program
24 standards developed by the State Department of Social Services
25 pursuant to Section 1502.3.

26 (12) “Transitional housing placement provider” means an
27 organization licensed by the department pursuant to Section
28 1559.110 and Section 16522.1 of the Welfare and Institutions Code
29 to provide transitional housing to foster children at least 16 years
30 of age and not more than 18 years of age, and nonminor
31 dependents, as defined in subdivision (v) of Section 11400 of the
32 Welfare and Institutions Code, to promote their transition to
33 adulthood. A transitional housing placement provider shall be
34 privately operated and organized on a nonprofit basis.

35 (b) “Department” or “state department” means the State
36 Department of Social Services.

37 (c) “Director” means the Director of Social Services.

38 ~~SEC. 5.~~

39 *SEC. 4.* Section 1505 of the Health and Safety Code is amended
40 to read:

- 1 1505. This chapter does not apply to any of the following:
- 2 (a) Any health facility, as defined by Section 1250.
- 3 (b) Any clinic, as defined by Section 1202.
- 4 (c) Any juvenile placement facility approved by the Department
- 5 of Corrections and Rehabilitation, Division of Juvenile Justice, or
- 6 any juvenile hall operated by a county.
- 7 (d) Any place in which a juvenile is judicially placed pursuant
- 8 to subdivision (a) of Section 727 of the Welfare and Institutions
- 9 Code.
- 10 (e) Any child day care facility, as defined in Section 1596.750.
- 11 (f) Any facility conducted by and for the adherents of any
- 12 well-recognized church or religious denomination for the purpose
- 13 of providing facilities for the care or treatment of the sick who
- 14 depend upon prayer or spiritual means for healing in the practice
- 15 of the religion of the church or denomination.
- 16 (g) Any school dormitory or similar facility determined by the
- 17 department.
- 18 (h) Any house, institution, hotel, homeless shelter, or other
- 19 similar place that supplies board and room only, or room only, or
- 20 board only, provided that no resident thereof requires any element
- 21 of care as determined by the director.
- 22 (i) Recovery houses or other similar facilities providing group
- 23 living arrangements for persons recovering from alcoholism or
- 24 drug addiction where the facility provides no care or supervision.
- 25 (j) Any alcoholism or drug abuse recovery or treatment facility
- 26 as defined by Section 11834.11.
- 27 (k) Any arrangement for the receiving and care of persons by
- 28 a relative or any arrangement for the receiving and care of persons
- 29 from only one family by a close friend of the parent, guardian, or
- 30 conservator, if the arrangement is not for financial profit and occurs
- 31 only occasionally and irregularly, as defined by regulations of the
- 32 department. For purposes of this chapter, arrangements for the
- 33 receiving and care of persons by a relative shall include relatives
- 34 of the child for the purpose of keeping sibling groups together.
- 35 (l) (1) Any home of a relative caregiver of children who are
- 36 placed by a juvenile court, supervised by the county welfare or
- 37 probation department, and the placement of whom is approved
- 38 according to subdivision (d) of Section 309 of the Welfare and
- 39 Institutions Code.

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

7 (3) On and after January 1, 2012, any supervised independent
8 living placement for nonminor dependents, as defined in
9 subdivision (w) of Section 11400 of the Welfare and Institutions
10 Code, who are placed by the juvenile court, supervised by the
11 county welfare department, probation department, Indian tribe,
12 consortium of tribes, or tribal organization that entered into an
13 agreement pursuant to Section 10553.1 of the Welfare and
14 Institutions Code, and whose placement is approved pursuant to
15 subdivision (k) of Section 11400 of the Welfare and Institutions
16 Code.

17 (4) A Transitional Housing Program-Plus, as defined in
18 subdivision (s) of Section 11400 of the Welfare and Institutions
19 Code, that serves only eligible former foster youth over 18 years
20 of age who have exited from the foster care system on or after their
21 18th birthday, and that has obtained certification from the
22 applicable county in accordance with subdivision (c) of Section
23 16522 of the Welfare and Institutions Code.

24 (m) Any supported living arrangement for individuals with
25 developmental disabilities, as defined in Section 4689 of the
26 Welfare and Institutions Code.

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

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

39 (B) As a family teaching home approved by a family home
40 agency, provides 24-hour care for a maximum of three adults with

1 developmental disabilities in independent residences, whether
2 contiguous or attached, and the provider is not licensed by the
3 State Department of Social Services or the State Department of
4 Public Health or certified by a licensee of the State Department of
5 Social Services or the State Department of Public Health.

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

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

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

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

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

20 (p) (1) (A) Any housing occupied by elderly or disabled
21 persons, or both, that is initially approved and operated under a
22 regulatory agreement pursuant to Section 202 of Public Law 86-372
23 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625
24 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to
25 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that
26 receives mortgage assistance pursuant to Section 221d (3) of Public
27 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
28 made available to residents at their option, as long as the project
29 owner or operator does not contract for or provide the supportive
30 services.

31 (B) Any housing that qualifies for a low-income housing credit
32 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
33 or that is subject to the requirements for rental dwellings for
34 low-income families pursuant to Section 8 of Public Law 93-383
35 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
36 persons, or both, where supportive services are made available to
37 residents at their option, as long as the project owner or operator
38 does not contract for or provide the supportive services.

1 (2) The project owner or operator to which paragraph (1) applies
2 may coordinate, or help residents gain access to, the supportive
3 services, either directly, or through a service coordinator.

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

5 ~~SEC. 6.~~

6 *SEC. 5.* Section 1559.110 of the Health and Safety Code is
7 amended to read:

8 1559.110. (a) (1) The State Department of Social Services
9 shall license transitional housing placement providers pursuant to
10 this chapter. Prior to licensure, a provider shall obtain certification
11 from the applicable county, in accordance with Section 16522.1
12 of the Welfare and Institutions Code.

13 (2) *For purposes of the certification of a program that serves*
14 *nonminor dependents in accordance with subdivision (c) of Section*
15 *16522.1 of the Welfare and Institutions Code, “applicable county”*
16 *means the county where the administrative office or*
17 *subadministrative office of a transitional housing placement*
18 *provider is located, or a primary placing county.*

19 (b) Transitional housing placement providers shall provide
20 supervised transitional housing services to foster children who are
21 at least 16 years of age and not more than 18 years of age, or
22 nonminor dependents, as defined in subdivision (v) of Section
23 11400 of the Welfare and Institutions Code, or both.

24 (c) Transitional housing placement providers shall certify that
25 housing units comply with the health and safety standards set forth
26 in paragraph (5) of subdivision (b) of Section 1501. Transitional
27 housing shall include any of the following:

28 (1) ~~Programs in which one or more participants in the program~~
29 ~~live in an apartment, single-family dwelling, or condominium with~~
30 ~~an adult employee of the provider, or host family home a~~
31 *participant lives in an apartment, single-family dwelling, or*
32 *condominium, with one or more adults approved by the provider.*

33 (2) Programs in which a participant lives independently in an
34 apartment, single-family dwelling, or condominium ~~rented~~ *owned*
35 ~~or leased by the provider located either with an adult employee of~~
36 ~~the provider or in a building in which one or more adult employees~~
37 ~~of the provider reside and provide supervision.~~

38 (3) Programs in which a participant lives independently in an
39 apartment, single-family dwelling, or condominium ~~rented~~ *owned*
40 ~~or leased by a provider under the supervision of the provider if the~~

1 State Department of Social Services provides approval. The
 2 housing model described in this paragraph shall be available to
 3 minor foster children, if placed prior to October 1, 2012, and to
 4 nonminor dependents.

5 (d) (1) The department shall adopt regulations to govern
 6 transitional housing placement providers licensed pursuant to this
 7 section.

8 (2) The regulations shall be age-appropriate and recognize that
 9 nonminor dependents who are about to exit from the foster care
 10 system should be subject to fewer restrictions than those who are
 11 foster children. At a minimum, the regulations shall provide for
 12 both of the following:

13 (A) Require programs that serve both foster children and
 14 nonminor dependents to have separate rules and program design,
 15 as appropriate, for these two groups of youth.

16 (B) Allow nonminor dependents to have the greatest amount of
 17 freedom possible in order to prepare them for their transition to
 18 adulthood, in accordance with paragraph (1) of subdivision (b) of
 19 Section 1502.7.

20 ~~(3)~~

21 (C) Maintain a program staffing ratio of case manager to client
 22 of ~~no more than~~ *not to exceed* 1 to 12.

23 (4) For purposes of the certification of a program that serves
 24 nonminor dependents in accordance with subdivision (c) of Section
 25 16522.1 of the Welfare and Institutions Code, “applicable county”
 26 means the county where the administrative office or
 27 subadministrative office of a transitional housing placement
 28 provider is located, or a primary placing county.

29 ~~SEC. 7.~~

30 *SEC. 6.* Section 11170 of the Penal Code is amended to read:

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

37 (2) The department shall act only as a repository of reports of
 38 suspected child abuse and severe neglect to be maintained in the
 39 Child Abuse Central Index (CACI) pursuant to paragraph (1). The
 40 submitting agencies are responsible for the accuracy, completeness,

1 and retention of the reports described in this section. The
2 department shall be responsible for ensuring that the CACI
3 accurately reflects the report it receives from the submitting agency.

4 (3) Only information from reports that are reported as
5 substantiated shall be filed pursuant to paragraph (1), and all other
6 determinations shall be removed from the central list.

7 (b) The provisions of subdivision (c) of Section 11169 apply to
8 any information provided pursuant to this subdivision.

9 (1) The Department of Justice shall immediately notify an
10 agency that submits a report pursuant to Section 11169, or a
11 prosecutor who requests notification, of any information maintained
12 pursuant to subdivision (a) that is relevant to the known or
13 suspected instance of child abuse or severe neglect reported by the
14 agency. The agency shall make that information available to the
15 reporting health care practitioner who is treating a person reported
16 as a possible victim of known or suspected child abuse. The agency
17 shall make that information available to the reporting child
18 custodian, Child Abuse Prevention and Treatment Act guardian
19 ad litem appointed under Rule 5.662 of the California Rules of
20 Court, or counsel appointed under Section 317 or 318 of the
21 Welfare and Institutions Code, or the appropriate licensing agency,
22 if he or she or the licensing agency is handling or investigating a
23 case of known or suspected child abuse or severe neglect.

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

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

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

1 suspected child abuser maintained pursuant to this section and
2 subdivision (a) of Section 11169 concerning any person who is an
3 applicant for licensure or approval, or any adult who resides or is
4 employed in the home of an applicant for licensure or approval,
5 or who is an applicant for employment in a position having
6 supervisory or disciplinary power over a child or children, or who
7 will provide 24-hour care for a child or children in a residential
8 home or facility, pursuant to Section 1522.1 or 1596.877 of the
9 Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of
10 the Family Code, or Section 11403.2 of the Welfare and Institutions
11 Code.

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

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

29 (7) The department shall make available to investigative
30 agencies or probation officers, or court investigators acting
31 pursuant to Section 1513 of the Probate Code, responsible for
32 placing children or assessing the possible placement of children
33 pursuant to Article 6 (commencing with Section 300), Article 7
34 (commencing with Section 305), Article 10 (commencing with
35 Section 360), or Article 14 (commencing with Section 601) of
36 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
37 Code, Article 2 (commencing with Section 1510) or Article 3
38 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
39 4 of the Probate Code, information regarding a known or suspected
40 child abuser contained in the index concerning any adult residing

1 in the home where the child may be placed, when this information
2 is requested for purposes of ensuring that the placement is in the
3 best interest of the child. Upon receipt of relevant information
4 concerning child abuse or neglect investigation reports contained
5 in the CACI from the Department of Justice pursuant to this
6 subdivision, the agency or court investigator shall notify, in writing,
7 the person listed in the CACI that he or she is in the index. The
8 notification shall include the name of the reporting agency and the
9 date of the report.

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

16 (9) The Department of Justice shall make available to a county
17 child welfare agency or delegated county adoption agency, as
18 defined in Section 8515 of the Family Code, conducting a
19 background investigation, or a government agency conducting a
20 background investigation on behalf of one of those agencies,
21 information regarding a known or suspected child abuser
22 maintained pursuant to this section and subdivision (a) of Section
23 11169 concerning any applicant seeking employment or volunteer
24 status with the agency who, in the course of his or her employment
25 or volunteer work, will have direct contact with children who are
26 alleged to have been, are at risk of, or have suffered, abuse or
27 neglect.

28 (10) (A) Persons or agencies, as specified in subdivision (b),
29 if investigating a case of known or suspected child abuse or neglect,
30 or the State Department of Social Services or any county licensing
31 agency pursuant to paragraph (4), or a Court Appointed Special
32 Advocate (CASA) program conducting a background investigation
33 for employment or volunteer candidates pursuant to paragraph (5),
34 or an investigative agency, probation officer, or court investigator
35 responsible for placing children or assessing the possible placement
36 of children pursuant to paragraph (7), or a government agency
37 conducting a background investigation of an applicant seeking
38 employment as a peace officer pursuant to paragraph (8), or a
39 county child welfare agency or delegated county adoption agency
40 conducting a background investigation of an applicant seeking

1 employment or volunteer status who, in the course of his or her
2 employment or volunteer work, will have direct contact with
3 children who are alleged to have been, are at risk of, or have
4 suffered, abuse or neglect, pursuant to paragraph (9), to whom
5 disclosure of any information maintained pursuant to subdivision
6 (a) is authorized, are responsible for obtaining the original
7 investigative report from the reporting agency, and for drawing
8 independent conclusions regarding the quality of the evidence
9 disclosed, and its sufficiency for making decisions regarding
10 investigation, prosecution, licensing, placement of a child,
11 employment or volunteer positions with a CASA program, or
12 employment as a peace officer.

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

21 (11) (A) Whenever information contained in the Department
22 of Justice files is furnished as the result of an application for
23 employment or licensing or volunteer status pursuant to paragraph
24 (4), (5), (8), or (9), the Department of Justice may charge the person
25 or entity making the request a fee. The fee shall not exceed the
26 reasonable costs to the department of providing the information.
27 The only increase shall be at a rate not to exceed the legislatively
28 approved cost-of-living adjustment for the department. In no case
29 shall the fee exceed fifteen dollars (\$15).

30 (B) All moneys received by the department pursuant to this
31 section to process trustline applications for purposes of Chapter
32 3.35 (commencing with Section 1596.60) of Division 2 of the
33 Health and Safety Code shall be deposited in a special account in
34 the General Fund that is hereby established and named the
35 Department of Justice Child Abuse Fund. Moneys in the fund shall
36 be available, upon appropriation by the Legislature, for expenditure
37 by the department to offset the costs incurred to process trustline
38 automated child abuse or neglect system checks pursuant to this
39 section.

1 (C) All moneys, other than those described in subparagraph (B),
2 received by the department pursuant to this paragraph shall be
3 deposited in a special account in the General Fund which is hereby
4 created and named the Department of Justice Sexual Habitual
5 Offender Fund. The funds shall be available, upon appropriation
6 by the Legislature, for expenditure by the department to offset the
7 costs incurred pursuant to Chapter 9.5 (commencing with Section
8 13885) and Chapter 10 (commencing with Section 13890) of Title
9 6 of Part 4, and the DNA and Forensic Identification Data Base
10 and Data Bank Act of 1998 (Chapter 6 (commencing with Section
11 295) of Title 9 of Part 1), and for maintenance and improvements
12 to the statewide Sexual Habitual Offender Program and the
13 California DNA offender identification file (CAL-DNA) authorized
14 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
15 Part 4 and the DNA and Forensic Identification Data Base and
16 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
17 of Title 9 of Part 1).

18 (c) (1) The Department of Justice shall make available to any
19 agency responsible for placing children pursuant to Article 7
20 (commencing with Section 305) of Chapter 2 of Part 1 of Division
21 2 of the Welfare and Institutions Code, upon request, relevant
22 information concerning child abuse or neglect reports contained
23 in the index, when making a placement with a responsible relative
24 pursuant to Sections 281.5, 305, and 361.3 of the Welfare and
25 Institutions Code. Upon receipt of relevant information concerning
26 child abuse or neglect reports contained in the index from the
27 Department of Justice pursuant to this subdivision, the agency
28 shall also notify in writing the person listed in the CACI that he
29 or she is in the index. The notification shall include the location
30 of the original investigative report and the submitting agency. The
31 notification shall be submitted to the person listed at the same time
32 that all other parties are notified of the information, and no later
33 than the actual judicial proceeding that determines placement.

34 (2) If information is requested by an agency for the placement
35 of a child with a responsible relative in an emergency situation
36 pursuant to Article 7 (commencing with Section 305) of Chapter
37 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the
38 department is exempt from the requirements of Section 1798.18
39 of the Civil Code if compliance would cause a delay in providing

1 an expedited response to the child protective agency's inquiry and
2 if further delay in placement may be detrimental to the child.

3 (d) The department shall make available any information
4 maintained pursuant to subdivision (a) to out-of-state law
5 enforcement agencies conducting investigations of known or
6 suspected child abuse or neglect only when an agency makes the
7 request for information in writing and on official letterhead, or as
8 designated by the department, identifying the suspected abuser or
9 victim by name and date of birth or approximate age. The request
10 shall be signed by the department supervisor of the requesting law
11 enforcement agency. The written requests shall cite the out-of-state
12 statute or interstate compact provision that requires that the
13 information contained within these reports shall be disclosed only
14 to law enforcement, prosecutorial entities, or multidisciplinary
15 investigative teams, and shall cite the safeguards in place to prevent
16 unlawful disclosure of any confidential information provided by
17 the requesting state or the applicable interstate compact provision.

18 (e) (1) The department shall make available to an out-of-state
19 agency, for purposes of approving a prospective foster or adoptive
20 parent in compliance with the Adam Walsh Child Protection and
21 Safety Act of 2006 (Public Law 109-248), information regarding
22 a known or suspected child abuser maintained pursuant to
23 subdivision (a) concerning the prospective foster or adoptive
24 parent, and any other adult living in the home of the prospective
25 foster or adoptive parent. The department shall make that
26 information available only when the out-of-state agency makes
27 the request indicating that continual compliance will be maintained
28 with the requirement in paragraph (20) of subsection (a) of Section
29 671 of Title 42 of the United States Code that requires the state to
30 have in place safeguards to prevent the unauthorized disclosure of
31 information in any child abuse and neglect registry maintained by
32 the state and prevent the information from being used for a purpose
33 other than the conducting of background checks in foster or
34 adoption placement cases.

35 (2) With respect to any information provided by the department
36 in response to the out-of-state agency's request, the out-of-state
37 agency is responsible for obtaining the original investigative report
38 from the reporting agency, and for drawing independent
39 conclusions regarding the quality of the evidence disclosed and

1 its sufficiency for making decisions regarding the approval of
2 prospective foster or adoptive parents.

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

10 (B) All moneys received by the department pursuant to this
11 subdivision shall be deposited in the Department of Justice Child
12 Abuse Fund, established under subparagraph (B) of paragraph (11)
13 of subdivision (b). Moneys in the fund shall be available, upon
14 appropriation by the Legislature, for expenditure by the department
15 to offset the costs incurred to process requests for information
16 pursuant to this subdivision.

17 (f) (1) Any person may determine if he or she is listed in the
18 CACI by making a request in writing to the Department of Justice.
19 The request shall be notarized and include the person's name,
20 address, date of birth, and either a social security number or a
21 California identification number. Upon receipt of a notarized
22 request, the Department of Justice shall make available to the
23 requesting person information identifying the date of the report
24 and the submitting agency. The requesting person is responsible
25 for obtaining the investigative report from the submitting agency
26 pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

27 (2) No person or agency shall require or request another person
28 to furnish a copy of a record concerning himself or herself, or
29 notification that a record concerning himself or herself exists or
30 does not exist, pursuant to paragraph (1).

31 (g) If a person is listed in the CACI only as a victim of child
32 abuse or neglect, and that person is 18 years of age or older, that
33 person may have his or her name removed from the index by
34 making a written request to the Department of Justice. The request
35 shall be notarized and include the person's name, address, social
36 security number, and date of birth.

37 ~~SEC. 8.~~

38 *SEC. 7.* Section 17.1 of the Welfare and Institutions Code is
39 amended to read:

1 17.1. Unless otherwise provided under the provisions of this
2 code, to the extent not in conflict with federal law, the residence
3 of a minor person, or a nonminor dependent, as described in
4 subdivision (v) of Section 11400, shall be determined by the
5 following rules:

6 (a) The residence of the parent with whom a child maintains
7 his or her place of abode or the residence of any individual who
8 has been appointed legal guardian or the individual who has been
9 given the care or custody by a court of competent jurisdiction,
10 determines the residence of the child.

11 (b) Wherever in this section it is provided that the residence of
12 a child is determined by the residence of the person who has
13 custody, “custody” means the legal right to custody of the child
14 unless that right is held jointly by two or more persons, in which
15 case “custody” means the physical custody of the child by one of
16 the persons sharing the right to custody.

17 (c) The residence of a foundling shall be deemed to be that of
18 the county in which the child is found.

19 (d) If the residence of the child is not determined under
20 subdivision (a), (b), (c), or (e), the county in which the child is
21 living shall be deemed the county of residence, if and when the
22 child has had a physical presence in the county for one year.

23 (e) If the child has been declared permanently free from the
24 custody and control of his or her parents, his or her residence is
25 the county in which the court issuing the order is situated.

26 (f) If a nonminor dependent under the dependency jurisdiction
27 or transition jurisdiction of the juvenile court is placed in a planned
28 permanent living arrangement, as described in subdivision (i) of
29 Section 366.3, the county in which the nonminor dependent is
30 living may be deemed the county of residence, if and when the
31 nonminor dependent has had a continuous physical presence in
32 the county for one year as a nonminor dependent and the nonminor
33 dependent expressed his or her intent to remain in that county.

34 (g) If a nonminor dependent’s dependency jurisdiction has been
35 resumed, or transition jurisdiction assumed or resumed by the
36 juvenile court that retained general jurisdiction pursuant to
37 subdivision (b) of Section 303, as a result of the filing of a petition
38 pursuant to subdivision (e) of Section 388, following the granting
39 of the petition, the county in which the nonminor dependent is
40 living at the time the petition was filed may be deemed the county

1 of residence, if and when the nonminor dependent establishes that
2 he or she has had a continuous physical presence in the county for
3 one year and has expressed his or her intent to remain in that
4 county. The period of continuous physical presence in the county
5 shall include any period of continuous residence in the county
6 immediately prior to the filing of the petition.

7 ~~SEC. 9.~~

8 *SEC. 8.* Section 101 of the Welfare and Institutions Code is
9 amended to read:

10 101. As used in this chapter, the following definitions shall
11 apply:

- 12 (a) "Adult" means a person 18 years of age or older.
- 13 (b) "Child or minor" means a person under 18 years of age.
- 14 (c) "CASA" means a Court-Appointed Special Advocate.
15 "CASA" also refers to a Court Designated Child Advocate in
16 programs which have utilized that title. A CASA has the duties
17 and responsibilities described in this chapter and shall be trained
18 by and function under the auspices of a Court Appointed Special
19 Advocate program as set forth in this chapter.
- 20 (d) "Court" means the superior court, including the juvenile
21 court.
- 22 (e) "Dependent" means a child described in Section 300 of the
23 Welfare and Institutions Code.
- 24 (f) "Nonminor dependent" means a foster child as described in
25 subdivision (v) of Section 11400.

26 ~~SEC. 10.~~

27 *SEC. 9.* Section 102 of the Welfare and Institutions Code is
28 amended to read:

- 29 102. (a) Each CASA program shall, if feasible, be staffed by
30 a minimum of one paid administrator. The staff shall be directly
31 accountable to the presiding juvenile court judge and the CASA
32 program board of directors, as applicable.
- 33 (b) The program shall provide for volunteers to serve as CASAs.
34 A CASA may be appointed in juvenile dependency proceedings
35 under Section 300, including proceedings involving a nonminor
36 dependent.
- 37 (c) Each CASA shall serve at the pleasure of the court having
38 jurisdiction over the proceedings in which a CASA has been
39 appointed and that appointment may continue after the child attains

1 his or her age of majority, with the consent of the nonminor
2 dependent. A CASA shall do all of the following:

3 (1) Provide independent, factual information to the court
4 regarding the cases to which he or she is appointed.

5 (2) Represent the best interests of the children involved, and
6 consider the best interests of the family, in the cases to which he
7 or she is appointed.

8 (3) At the request of the judge, monitor cases to which he or
9 she has been appointed to assure that the court’s orders have been
10 fulfilled.

11 (d) The Judicial Council, through its rules and regulations, shall
12 require an initial and ongoing training program consistent with
13 this chapter to all persons acting as a CASA, including, but not
14 limited to, each of the following:

15 (1) Dynamics of child abuse and neglect.

16 (2) Court structure, including juvenile court laws regarding
17 dependency.

18 (3) Social service systems.

19 (4) Child development.

20 (5) Interviewing techniques.

21 (6) Report writing.

22 (7) Roles and responsibilities of a CASA.

23 (8) Rules of evidence and discovery procedures.

24 (9) Problems associated with verifying reports.

25 (e) The Judicial Council, through its CASA Advisory
26 Committee, shall adopt guidelines for the screening of CASA
27 volunteers, which shall include personal interviews, reference
28 checks, checks for records of sex offenses and other criminal
29 records, information from the Department of Motor Vehicles, and
30 other information as the Judicial Council deems appropriate.

31 ~~SEC. 11.~~

32 *SEC. 10.* Section 107 of the Welfare and Institutions Code is
33 amended to read:

34 107. (a) Except as provided in subdivision (b), upon
35 presentation of the order of his or her appointment by the CASA,
36 and upon specific court order and consistent with the rules of
37 evidence, any agency, hospital, school, organization, division or
38 department of the state, physician and surgeon, nurse, other health
39 care provider, psychologist, psychiatrist, police department, or
40 mental health clinic shall permit the CASA to inspect and copy

1 any records relating to the child involved in the case of appointment
2 without the consent of the child or parents.

3 (b) Subdivision (a) does not apply to the records of or pertaining
4 to a nonminor dependent. The CASA may have access to those
5 records only with the explicit written and informed consent of the
6 nonminor dependent.

7 ~~SEC. 12.~~

8 *SEC. 11.* Section 295 of the Welfare and Institutions Code is
9 amended to read:

10 295. The social worker or probation officer shall give notice
11 of review hearings held pursuant to Sections 366.3 and 366.31 and
12 for termination of jurisdiction hearings held pursuant to Section
13 391 in the following manner:

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

15 (1) The mother.

16 (2) The presumed father.

17 (3) The legal guardian or guardians.

18 (4) The child, if the child is 10 years of age or older, or a
19 nonminor dependent.

20 (5) Any known sibling of the child or nonminor dependent who
21 is the subject of the hearing if that sibling either is the subject of
22 a dependency proceeding or has been adjudged to be a dependent
23 child of the juvenile court. If the sibling is 10 years of age or older,
24 the sibling, the sibling's caregiver, and the sibling's attorney. If
25 the sibling is under 10 years of age, the sibling's caregiver and the
26 sibling's attorney. However, notice is not required to be given to
27 any sibling whose matter is calendared in the same court on the
28 same day.

29 (6) The current caregiver of the child, including foster parents,
30 relative caregivers, preadoptive parents, nonrelative extended
31 family members, community care facility, or foster family agency
32 having physical custody of the child if a child is removed from the
33 physical custody of the parents or legal guardian. The person
34 notified may attend all hearings and may submit any information
35 he or she deems relevant to the court in writing.

36 (7) The current caregiver of a nonminor dependent, as described
37 in subdivision (v) of Section 11400. The person notified may attend
38 all hearings and may submit for filing an original and eight copies
39 of written information he or she deems relevant to the court. The
40 court clerk shall provide the current parties and attorneys of record

1 with a copy of the written information immediately upon receipt
2 and complete, file, and distribute a proof of service.

3 (8) The attorney of record if that attorney of record was not
4 present at the time that the hearing was set by the court.

5 (9) The alleged father or fathers, but only if the recommendation
6 is to set a new hearing pursuant to Section 366.26.

7 (b) No notice shall be required for a parent whose parental rights
8 have been terminated or for the parent of a nonminor dependent,
9 as described in subdivision (v) of Section 11400, unless the parent
10 is receiving court-ordered family reunification services pursuant
11 to Section 361.6.

12 (c) The notice of the review hearing shall be served no earlier
13 than 30 days, nor later than 15 days, before the hearing.

14 (d) The notice of the review hearing shall contain a statement
15 regarding the nature of the hearing to be held, any recommended
16 change in the custody or status of the child, and any
17 recommendation that the court set a new hearing pursuant to
18 Section 366.26 in order to select a more permanent plan.

19 (e) Service of notice shall be by first-class mail addressed to
20 the last known address of the person to be provided notice. In the
21 case of an Indian child, notice shall be by registered mail, return
22 receipt requested.

23 (f) If the child is ordered into a permanent plan of legal
24 guardianship, and subsequently a petition to terminate or modify
25 the guardianship is filed, the probation officer or social worker
26 shall serve notice of the petition not less than 15 court days prior
27 to the hearing on all persons listed in subdivision (a) and on the
28 court that established legal guardianship if it is in another county.

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

32 ~~SEC. 13.~~

33 *SEC. 12.* Section 303 of the Welfare and Institutions Code is
34 amended to read:

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

38 (b) On and after January 1, 2012, the court shall have within its
39 jurisdiction any nonminor dependent, as defined in subdivision
40 (v) of Section 11400. The court may terminate its dependency,

1 delinquency, or transition jurisdiction over the nonminor dependent
2 between the time the nonminor reaches the age of majority and 21
3 years of age. If the court terminates dependency, delinquency, or
4 transition jurisdiction, the nonminor dependent shall remain under
5 the general jurisdiction of the court in order to allow for a petition
6 under subdivision (e) of Section 388.

7 (c) On and after January 1, 2012, a nonminor who has not yet
8 attained 21 years of age and who exited foster care at or after the
9 age of majority, may petition the court pursuant to subdivision (e)
10 of Section 388 to resume dependency jurisdiction over himself or
11 herself or to assume transition jurisdiction over himself or herself
12 pursuant to Section 450.

13 (d) (1) Nothing in this code, including, but not limited to,
14 Sections 340, 366.27, and 369.5, shall be construed to provide
15 legal custody of a person who has attained 18 years of age to the
16 county welfare or probation department or to otherwise abrogate
17 any other rights that a person who has attained 18 years of age
18 may have as an adult under California law. A nonminor dependent
19 shall retain all of his or her legal decisionmaking authority as an
20 adult. The nonminor shall enter into a mutual agreement for
21 placement, as described in subdivision (u) of Section 11400, unless
22 the nonminor dependent is incapable of making an informed
23 agreement, or a voluntary reentry agreement, as described in
24 subdivision (z) of Section 11400, for placement and care in which
25 the nonminor consents to placement and care in a setting supervised
26 by, and under the responsibility of, the county child welfare
27 services department, the county probation department, or Indian
28 tribe, tribal organization, or consortium of tribes that entered into
29 an agreement pursuant to Section 10553.1.

30 (2) A nonminor dependent who remains under delinquency
31 jurisdiction in order to complete his or her rehabilitative goals and
32 is under a foster care placement order is not required to complete
33 the mutual agreement as described in subdivision (u) of Section
34 11400. His or her adult decisionmaking authority may be limited
35 by and subject to the care, supervision, custody, conduct, and
36 maintenance orders as described in Section 727.

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

1 ~~SEC. 14.~~

2 *SEC. 13.* Section 317 of the Welfare and Institutions Code is
3 amended to read:

4 317. (a) (1) When it appears to the court that a parent or
5 guardian of the child desires counsel but is presently financially
6 unable to afford and cannot for that reason employ counsel, the
7 court may appoint counsel as provided in this section.

8 (2) When it appears to the court that a parent or Indian custodian
9 in an Indian child custody proceeding desires counsel but is
10 presently unable to afford and cannot for that reason employ
11 counsel, the provisions of subsection (b) of Section 1912 of the
12 federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.)
13 and Section 23.13 of Title 25 of the Code of Federal Regulations
14 are applicable.

15 (b) When it appears to the court that a parent or guardian of the
16 child is presently financially unable to afford and cannot for that
17 reason employ counsel, and the child has been placed in
18 out-of-home care, or the petitioning agency is recommending that
19 the child be placed in out-of-home care, the court shall appoint
20 counsel for the parent or guardian, unless the court finds that the
21 parent or guardian has made a knowing and intelligent waiver of
22 counsel as provided in this section.

23 (c) If a child or nonminor dependent is not represented by
24 counsel, the court shall appoint counsel for the child or nonminor
25 dependent, unless the court finds that the child or nonminor
26 dependent would not benefit from the appointment of counsel. The
27 court shall state on the record its reasons for that finding. A primary
28 responsibility of counsel appointed to represent a child or nonminor
29 dependent pursuant to this section shall be to advocate for the
30 protection, safety, and physical and emotional well-being of the
31 child or nonminor dependent. Counsel may be a district attorney,
32 public defender, or other member of the bar, provided that he or
33 she does not represent another party or county agency whose
34 interests conflict with the child's or nonminor dependent's interests.
35 The fact that the district attorney represents the child or nonminor
36 dependent in a proceeding pursuant to Section 300 as well as
37 conducts a criminal investigation or files a criminal complaint or
38 information arising from the same or reasonably related set of facts
39 as the proceeding pursuant to Section 300 is not in and of itself a
40 conflict of interest. The court may fix the compensation for the

1 services of appointed counsel. The appointed counsel shall have
2 a caseload and training that ensures adequate representation of the
3 child or nonminor dependent. The Judicial Council shall
4 promulgate rules of court that establish caseload standards, training
5 requirements, and guidelines for appointed counsel for children
6 and shall adopt rules as required by Section 326.5 no later than
7 July 1, 2001.

8 (d) Counsel shall represent the parent, guardian, child, or
9 nonminor dependent at the detention hearing and at all subsequent
10 proceedings before the juvenile court. Counsel shall continue to
11 represent the parent, guardian, child, or nonminor dependent unless
12 relieved by the court upon the substitution of other counsel or for
13 cause. The representation shall include representing the parent,
14 guardian, or the child in termination proceedings and in those
15 proceedings relating to the institution or setting aside of a legal
16 guardianship. On and after January 1, 2012, in the case of a
17 nonminor dependent, as described in subdivision (v) of Section
18 11400, no representation by counsel shall be provided for a parent,
19 unless the parent is receiving court-ordered family reunification
20 services.

21 (e) (1) Counsel shall be charged in general with the
22 representation of the child's interests. To that end, counsel shall
23 make or cause to have made any further investigations that he or
24 she deems in good faith to be reasonably necessary to ascertain
25 the facts, including the interviewing of witnesses, and shall
26 examine and cross-examine witnesses in both the adjudicatory and
27 dispositional hearings. Counsel may also introduce and examine
28 his or her own witnesses, make recommendations to the court
29 concerning the child's welfare, and participate further in the
30 proceedings to the degree necessary to adequately represent the
31 child. When counsel is appointed to represent a nonminor
32 dependent, counsel is charged with representing the wishes of the
33 nonminor dependent except when advocating for those wishes
34 conflicts with the protection or safety of the nonminor dependent.
35 If the court finds that a nonminor dependent is not competent to
36 direct counsel, the court shall appoint a guardian ad litem for the
37 nonminor dependent.

38 (2) If the child is four years of age or older, counsel shall
39 interview the child to determine the child's wishes and assess the
40 child's well-being, and shall advise the court of the child's wishes.

1 Counsel shall not advocate for the return of the child if, to the best
2 of his or her knowledge, return of the child conflicts with the
3 protection and safety of the child.

4 (3) Counsel shall investigate the interests of the child beyond
5 the scope of the juvenile proceeding, and report to the court other
6 interests of the child that may need to be protected by the institution
7 of other administrative or judicial proceedings. Counsel
8 representing a child in a dependency proceeding is not required to
9 assume the responsibilities of a social worker, and is not expected
10 to provide nonlegal services to the child.

11 (4) Counsel for the child and counsel's agent may, but are not
12 required to, disclose to an individual who is being assessed for the
13 possibility of placement pursuant to Section 361.3 the fact that the
14 child is in custody, the alleged reasons that the child is in custody,
15 and the projected likely date for the child's return home, placement
16 for adoption, or legal guardianship. Nothing in this paragraph shall
17 be construed to prohibit counsel from making other disclosures
18 pursuant to this subdivision, as appropriate.

19 (5) Nothing in this subdivision shall be construed to permit
20 counsel to violate a child's attorney-client privilege.

21 (6) The changes made to this subdivision during the 2011–12
22 Regular Session of the Legislature by the act adding paragraphs
23 (4) and (5) are declaratory of existing law.

24 (7) The court shall take whatever appropriate action is necessary
25 to fully protect the interests of the child.

26 (f) Either the child or counsel for the child, with the informed
27 consent of the child if the child is found by the court to be of
28 sufficient age and maturity to consent, which shall be presumed,
29 subject to rebuttal by clear and convincing evidence, if the child
30 is over 12 years of age, may invoke the psychotherapist-client
31 privilege, physician-patient privilege, and clergyman-penitent
32 privilege. If the child invokes the privilege, counsel may not waive
33 it, but if counsel invokes the privilege, the child may waive it.
34 Counsel shall be the holder of these privileges if the child is found
35 by the court not to be of sufficient age and maturity to consent.
36 For the sole purpose of fulfilling his or her obligation to provide
37 legal representation of the child, counsel shall have access to all
38 records with regard to the child maintained by a health care facility,
39 as defined in Section 1545 of the Penal Code, health care providers,
40 as defined in Section 6146 of the Business and Professions Code,

1 a physician and surgeon or other health practitioner, as defined in
2 former Section 11165.8 of the Penal Code, as that section read on
3 January 1, 2000, or a child care custodian, as defined in former
4 Section 11165.7 of the Penal Code, as that section read on January
5 1, 2000. Notwithstanding any other law, counsel shall be given
6 access to all records relevant to the case that are maintained by
7 state or local public agencies. All information requested from a
8 child protective agency regarding a child who is in protective
9 custody, or from a child’s guardian ad litem, shall be provided to
10 the child’s counsel within 30 days of the request.

11 (g) In a county of the third class, if counsel is to be provided to
12 a child at the county’s expense other than by counsel for the
13 agency, the court shall first utilize the services of the public
14 defender prior to appointing private counsel. Nothing in this
15 subdivision shall be construed to require the appointment of the
16 public defender in any case in which the public defender has a
17 conflict of interest. In the interest of justice, a court may depart
18 from that portion of the procedure requiring appointment of the
19 public defender after making a finding of good cause and stating
20 the reasons therefor on the record.

21 (h) In a county of the third class, if counsel is to be appointed
22 to provide legal counsel for a parent or guardian at the county’s
23 expense, the court shall first utilize the services of the alternate
24 public defender prior to appointing private counsel. Nothing in
25 this subdivision shall be construed to require the appointment of
26 the alternate public defender in any case in which the public
27 defender has a conflict of interest. In the interest of justice, a court
28 may depart from that portion of the procedure requiring
29 appointment of the alternate public defender after making a finding
30 of good cause and stating the reasons therefor on the record.

31 ~~SEC. 15.~~

32 *SEC. 14.* Section 361 of the Welfare and Institutions Code is
33 amended to read:

34 361. (a) In all cases in which a minor is adjudged a dependent
35 child of the court on the ground that the minor is a person described
36 by Section 300, the court may limit the control to be exercised
37 over the dependent child by any parent or guardian and shall by
38 its order clearly and specifically set forth all those limitations. Any
39 limitation on the right of the parent or guardian to make educational
40 or developmental services decisions for the child shall be

1 specifically addressed in the court order. The limitations may not
2 exceed those necessary to protect the child. If the court specifically
3 limits the right of the parent or guardian to make educational or
4 developmental services decisions for the child, or, for the nonminor
5 dependent, if the court finds the appointment of a developmental
6 services decisionmaker to be in the best interests of the nonminor
7 dependent, the court shall at the same time appoint a responsible
8 adult to make educational or developmental services decisions for
9 the child or nonminor dependent until one of the following occurs:

10 (1) The minor reaches 18 years of age, unless the child or
11 nonminor dependent chooses not to make educational or
12 developmental services decisions for himself or herself, or is
13 deemed by the court to be incompetent.

14 (2) Another responsible adult is appointed to make educational
15 or developmental services decisions for the minor pursuant to this
16 section.

17 (3) The right of the parent or guardian to make educational or
18 developmental services decisions for the minor is fully restored.

19 (4) A successor guardian or conservator is appointed.

20 (5) The child is placed into a planned permanent living
21 arrangement pursuant to paragraph (3) of subdivision (g) of Section
22 366.21, Section 366.22, Section 366.26, or subdivision (i) of
23 Section 336.3, at which time, for educational decisionmaking, the
24 foster parent, relative caretaker, or nonrelative extended family
25 member as defined in Section 362.7, has the right to represent the
26 child in educational matters pursuant to Section 56055 of the
27 Education Code, and for decisions relating to developmental
28 services, unless the court specifies otherwise, the foster parent,
29 relative caregiver, or nonrelative extended family member of the
30 planned permanent living arrangement has the right to represent
31 the child or nonminor dependent in matters related to
32 developmental services.

33 An individual who would have a conflict of interest in
34 representing the child or nonminor dependent may not be appointed
35 to make educational or developmental services decisions. For
36 purposes of this section, “an individual who would have a conflict
37 of interest,” means a person having any interests that might restrict
38 or bias his or her ability to make educational or developmental
39 services decisions, including, but not limited to, those conflicts of
40 interest prohibited by Section 1126 of the Government Code, and

1 the receipt of compensation or attorneys' fees for the provision of
2 services pursuant to this section. A foster parent may not be deemed
3 to have a conflict of interest solely because he or she receives
4 compensation for the provision of services pursuant to this section.

5 If the court is unable to appoint a responsible adult to make
6 educational decisions for the child and paragraphs (1) to (5),
7 inclusive, do not apply, and the child has either been referred to
8 the local educational agency for special education and related
9 services, or has a valid individualized education program, the court
10 shall refer the child to the local educational agency for appointment
11 of a surrogate parent pursuant to Section 7579.5 of the Government
12 Code.

13 If the court cannot identify a responsible adult to make
14 educational decisions for the child, the appointment of a surrogate
15 parent as defined in subdivision (a) of Section 56050 of the
16 Education Code is not warranted, and there is no foster parent to
17 exercise the authority granted by Section 56055 of the Education
18 Code, the court may, with the input of any interested person, make
19 educational decisions for the child.

20 If the court appoints a developmental services decisionmaker
21 pursuant to this section, he or she shall have the authority to access
22 the child's or nonminor dependent information and records
23 pursuant to subdivision (u) of Section 4514 and subdivision (y) of
24 Section 5328, and to act on the child's or nonminor dependent
25 behalf for the purposes of the individual program plan process
26 pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing
27 process pursuant to Chapter 7 (commencing with Section 4700)
28 of Division 4.5, and as set forth in the court order.

29 If the court cannot identify a responsible adult to make
30 developmental services decisions for the child or nonminor
31 dependent, the court may, with the input of any interested person,
32 make developmental services decisions for the child or nonminor
33 dependent. If the child is receiving services from a regional center,
34 the provision of any developmental services related to the court's
35 decision must be consistent with the child's or nonminor dependent
36 individual program plan and pursuant to the provisions of the
37 Lanterman Developmental Disabilities Services Act (Division 4.5
38 (commencing with Section 4500)).

39 All educational and school placement decisions shall seek to
40 ensure that the child is in the least restrictive educational programs

1 and has access to the academic resources, services, and
2 extracurricular and enrichment activities that are available to all
3 pupils. In all instances, educational and school placement decisions
4 shall be based on the best interests of the child.

5 (b) Subdivision (a) does not limit the ability of a parent to
6 voluntarily relinquish his or her child to the State Department of
7 Social Services or to a county adoption agency at any time while
8 the child is a dependent child of the juvenile court, if the
9 department or agency is willing to accept the relinquishment.

10 (c) A dependent child may not be taken from the physical
11 custody of his or her parents or guardian or guardians with whom
12 the child resides at the time the petition was initiated, unless the
13 juvenile court finds clear and convincing evidence of any of the
14 following circumstances listed in paragraphs (1) to (5), inclusive,
15 and, in an Indian child custody proceeding, paragraph (6):

16 (1) There is or would be a substantial danger to the physical
17 health, safety, protection, or physical or emotional well-being of
18 the minor if the minor were returned home, and there are no
19 reasonable means by which the minor's physical health can be
20 protected without removing the minor from the minor's parent's
21 or guardian's physical custody. The fact that a minor has been
22 adjudicated a dependent child of the court pursuant to subdivision
23 (e) of Section 300 shall constitute prima facie evidence that the
24 minor cannot be safely left in the physical custody of the parent
25 or guardian with whom the minor resided at the time of injury.
26 The court shall consider, as a reasonable means to protect the
27 minor, the option of removing an offending parent or guardian
28 from the home. The court shall also consider, as a reasonable means
29 to protect the minor, allowing a nonoffending parent or guardian
30 to retain physical custody as long as that parent or guardian
31 presents a plan acceptable to the court demonstrating that he or
32 she will be able to protect the child from future harm.

33 (2) The parent or guardian of the minor is unwilling to have
34 physical custody of the minor, and the parent or guardian has been
35 notified that if the minor remains out of their physical custody for
36 the period specified in Section 366.26, the minor may be declared
37 permanently free from their custody and control.

38 (3) The minor is suffering severe emotional damage, as indicated
39 by extreme anxiety, depression, withdrawal, or untoward aggressive
40 behavior toward himself or herself or others, and there are no

1 reasonable means by which the minor’s emotional health may be
2 protected without removing the minor from the physical custody
3 of his or her parent or guardian.

4 (4) The minor or a sibling of the minor has been sexually abused,
5 or is deemed to be at substantial risk of being sexually abused, by
6 a parent, guardian, or member of his or her household, or other
7 person known to his or her parent, and there are no reasonable
8 means by which the minor can be protected from further sexual
9 abuse or a substantial risk of sexual abuse without removing the
10 minor from his or her parent or guardian, or the minor does not
11 wish to return to his or her parent or guardian.

12 (5) The minor has been left without any provision for his or her
13 support, or a parent who has been incarcerated or institutionalized
14 cannot arrange for the care of the minor, or a relative or other adult
15 custodian with whom the child has been left by the parent is
16 unwilling or unable to provide care or support for the child and
17 the whereabouts of the parent is unknown and reasonable efforts
18 to locate him or her have been unsuccessful.

19 (6) In an Indian child custody proceeding, continued custody
20 of the child by the parent or Indian custodian is likely to result in
21 serious emotional or physical damage to the child, and that finding
22 is supported by testimony of a “qualified expert witness” as
23 described in Section 224.6.

24 (A) Stipulation by the parent, Indian custodian, or the Indian
25 child’s tribe, or failure to object, may waive the requirement of
26 producing evidence of the likelihood of serious damage only if the
27 court is satisfied that the party has been fully advised of the
28 requirements of the federal Indian Child Welfare Act (25 U.S.C.
29 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
30 waived them.

31 (B) Failure to meet non-Indian family and child-rearing
32 community standards, or the existence of other behavior or
33 conditions that meet the removal standards of this section, will not
34 support an order for placement in the absence of the finding in this
35 paragraph.

36 (d) The court shall make a determination as to whether
37 reasonable efforts were made to prevent or to eliminate the need
38 for removal of the minor from his or her home or, if the minor is
39 removed for one of the reasons stated in paragraph (5) of
40 subdivision (c), whether it was reasonable under the circumstances

1 not to make any of those efforts, or, in the case of an Indian child
 2 custody proceeding, whether active efforts as required in Section
 3 361.7 were made and that these efforts have proved unsuccessful.
 4 The court shall state the facts on which the decision to remove the
 5 minor is based.

6 (e) The court shall make all of the findings required by
 7 subdivision (a) of Section 366 in either of the following
 8 circumstances:

9 (1) The minor has been taken from the custody of his or her
 10 parent or guardian and has been living in an out-of-home placement
 11 pursuant to Section 319.

12 (2) The minor has been living in a voluntary out-of-home
 13 placement pursuant to Section 16507.4.

14 ~~SEC. 16.~~

15 *SEC. 15.* Section 361.5 of the Welfare and Institutions Code
 16 is amended to read:

17 361.5. (a) Except as provided in subdivision (b), or when the
 18 parent has voluntarily relinquished the child and the relinquishment
 19 has been filed with the State Department of Social Services, or
 20 upon the establishment of an order of guardianship pursuant to
 21 Section 360, or when a court adjudicates a petition under Section
 22 329 to modify the court’s jurisdiction from delinquency jurisdiction
 23 to dependency jurisdiction pursuant to subparagraph (A) of
 24 paragraph (2) of subdivision (b) of Section 607.2 and the parents
 25 or guardian of the ward have had reunification services terminated
 26 under the delinquency jurisdiction, whenever a child is removed
 27 from a parent’s or guardian’s custody, the juvenile court shall order
 28 the social worker to provide child welfare services to the child and
 29 the child’s mother and statutorily presumed father or guardians.
 30 Upon a finding and declaration of paternity by the juvenile court
 31 or proof of a prior declaration of paternity by any court of
 32 competent jurisdiction, the juvenile court may order services for
 33 the child and the biological father, if the court determines that the
 34 services will benefit the child.

35 (1) Family reunification services, when provided, shall be
 36 provided as follows:

37 (A) Except as otherwise provided in subparagraph (C), for a
 38 child who, on the date of initial removal from the physical custody
 39 of his or her parent or guardian, was three years of age or older,
 40 court-ordered services shall be provided beginning with the

1 dispositional hearing and ending 12 months after the date the child
2 entered foster care as defined in Section 361.49, unless the child
3 is returned to the home of the parent or guardian.

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

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

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

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

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

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

37 (3) Notwithstanding subparagraphs (A), (B), and (C) of
38 paragraph (1), court-ordered services may be extended up to a
39 maximum time period not to exceed 18 months after the date the
40 child was originally removed from physical custody of his or her

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

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

39 In cases where the child was under three years of age on the date
40 of the initial removal from the physical custody of his or her parent

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

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

32 When counseling or other treatment services are ordered, the
33 parent or guardian shall be ordered to participate in those services,
34 in order for substantial probability to be found. Physical custody
35 of the child by the parents or guardians during the applicable time
36 period under subparagraph (A), (B), or (C) of paragraph (1) shall
37 not serve to interrupt the running of the period. If at the end of the
38 applicable time period, the child cannot be safely returned to the
39 care and custody of a parent or guardian without court supervision,
40 but the child clearly desires contact with the parent or guardian,

1 the court shall take the child's desire into account in devising a
2 permanency plan.

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

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

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

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

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

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

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

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

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

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

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

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

30 (9) That the child has been found to be a child described in
31 subdivision (g) of Section 300; that the parent or guardian of the
32 child willfully abandoned the child, and the court finds that the
33 abandonment itself constituted a serious danger to the child; or
34 that the parent or other person having custody of the child
35 voluntarily surrendered physical custody of the child pursuant to
36 Section 1255.7 of the Health and Safety Code. For the purposes
37 of this paragraph, "serious danger" means that without the
38 intervention of another person or agency, the child would have
39 sustained severe or permanent disability, injury, illness, or death.
40 For purposes of this paragraph, "willful abandonment" shall not

1 be construed as actions taken in good faith by the parent without
2 the intent of placing the child in serious danger.

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

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

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

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

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

36 The parent or guardian shall be represented by counsel and shall
37 execute a waiver of services form to be adopted by the Judicial
38 Council. The court shall advise the parent or guardian of any right
39 to services and of the possible consequences of a waiver of
40 services, including the termination of parental rights and placement

1 of the child for adoption. The court shall not accept the waiver of
2 services unless it states on the record its finding that the parent or
3 guardian has knowingly and intelligently waived the right to
4 services.

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

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

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

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

38 The failure of the parent to respond to previous services, the fact
39 that the child was abused while the parent was under the influence
40 of drugs or alcohol, a past history of violent behavior, or testimony

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

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

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

34 (A) Maintaining contact between the parent and child through
35 collect telephone calls.

36 (B) Transportation services, where appropriate.

37 (C) Visitation services, where appropriate.

38 (D) Reasonable services to extended family members or foster
39 parents providing care for the child if the services are not
40 detrimental to the child.

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

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

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

28 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
29 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
30 paragraph (1) of subdivision (e), does not order reunification
31 services, it shall, at the dispositional hearing, that shall include a
32 permanency hearing, determine if a hearing under Section 366.26
33 shall be set in order to determine whether adoption, guardianship,
34 or long-term foster care, or in the case of an Indian child, in
35 consultation with the child's tribe, tribal customary adoption, is
36 the most appropriate plan for the child, and shall consider in-state
37 and out-of-state placement options. If the court so determines, it
38 shall conduct the hearing pursuant to Section 366.26 within 120
39 days after the dispositional hearing. However, the court shall not
40 schedule a hearing so long as the other parent is being provided

1 reunification services pursuant to subdivision (a). The court may
2 continue to permit the parent to visit the child unless it finds that
3 visitation would be detrimental to the child.

4 (g) (1) Whenever a court orders that a hearing shall be held
5 pursuant to Section 366.26, including, when, in consultation with
6 the child's tribe, tribal customary adoption is recommended, it
7 shall direct the agency supervising the child and the county
8 adoption agency, or the State Department of Social Services when
9 it is acting as an adoption agency, to prepare an assessment that
10 shall include:

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

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

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

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

1 the Kin-GAP Program, as provided for in Article 4.7 (commencing
2 with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative”
3 as used in this section has the same meaning as “relative” as
4 defined in subdivision (c) of Section 11391.

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

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

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

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

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

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

38 (B) A relative caregiver shall be given information regarding
39 the permanency options of guardianship and adoption, including
40 the long-term benefits and consequences of each option, prior to

1 establishing legal guardianship or pursuing adoption. If the
2 proposed permanent plan is guardianship with an approved relative
3 caregiver for a minor eligible for aid under the Kin-GAP Program,
4 as provided for in Article 4.7 (commencing with Section 11385)
5 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
6 be informed about the terms and conditions of the negotiated
7 agreement pursuant to Section 11387 and shall agree to its
8 execution prior to the hearing held pursuant to Section 366.26. A
9 copy of the executed negotiated agreement shall be attached to the
10 assessment.

11 (h) If, at any hearing held pursuant to Section 366.26, a
12 guardianship is established for the minor with an approved relative
13 caregiver and juvenile court dependency is subsequently dismissed,
14 the minor shall be eligible for aid under the Kin-GAP Program as
15 provided for in Article 4.5 (commencing with Section 11360) or
16 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part
17 3 of Division 9, as applicable.

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

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

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

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

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

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

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

36 (j) When the court determines that reunification services will
37 not be ordered, it shall order that the child's caregiver receive the
38 child's birth certificate in accordance with Sections 16010.4 and
39 16010.5. Additionally, when the court determines that reunification
40 services will not be ordered, it shall order, when appropriate, that

1 a child who is 16 years of age or older receive his or her birth
2 certificate.

3 (k) The court shall read into the record the basis for a finding
4 of severe sexual abuse or the infliction of severe physical harm
5 under paragraph (6) of subdivision (b), and shall also specify the
6 factual findings used to determine that the provision of
7 reunification services to the offending parent or guardian would
8 not benefit the child.

9 ~~SEC. 17.~~

10 *SEC. 16.* Section 361.6 is added to the Welfare and Institutions
11 Code, to read:

12 361.6. (a) Notwithstanding any other law, the court may order
13 family reunification services to continue for a nonminor dependent,
14 as defined in subdivision (v) of Section 11400, if the nonminor
15 dependent and parent, parents, or legal guardian are in agreement
16 and the court finds that the continued provision of court-ordered
17 family reunification services is in the best interests of the nonminor
18 dependent and there is a substantial probability that the nonminor
19 dependent will be able to safely reside in the home of the parent
20 or guardian by the next review hearing. The continuation of the
21 court-ordered reunification services shall not exceed the timeframes
22 as set forth in Section 361.5. If the nonminor dependent or parent,
23 parents, or legal guardian are not in agreement, or the court finds
24 there is not a substantial probability that the nonminor will be able
25 to safely reside in the home of the parent or guardian, the court
26 shall terminate family reunification services to the parents or
27 guardian. The nonminor dependent's legal status as an adult is, in
28 and of itself, a compelling reason not to hold a hearing pursuant
29 to Section 366.26. The court may order that a nonminor dependent
30 who is otherwise eligible for AFDC-FC benefits pursuant to
31 Section 11403 remain in a planned, permanent living arrangement.

32 (b) Any motion to terminate court-ordered family reunification
33 services for a nonminor dependent prior to the hearing set pursuant
34 to Section 366.31 shall be made pursuant to subdivision (c) of
35 Section 388.

36 (c) An order terminating court-ordered family reunification
37 services under this section shall not be considered evidence of a
38 condition required for the filing of a petition to terminate a parent's
39 or legal guardian's court-ordered family reunification services

1 with the nonminor dependent's sibling or half-sibling under
2 subdivision (c) of Section 388.

3 (d) An order terminating court-ordered family reunification
4 services under this section shall not be used to deny family
5 reunification services to a parent or legal guardian for a nonminor
6 dependent's sibling or half-sibling under subdivision (b) of Section
7 361.5.

8 (e) The continuation of court-ordered family reunification
9 services under this section does not affect the nonminor's eligibility
10 for extended foster care benefits as a nonminor dependent as
11 defined in subdivision (v) of Section 11400. The reviews conducted
12 for any nonminor dependent shall be held pursuant to Section
13 366.31.

14 ~~SEC. 18:~~

15 *SEC. 17.* Section 362.5 is added to the Welfare and Institutions
16 Code, to read:

17 362.5. (a) The clerk of the superior court shall open a separate
18 court file for nonminor dependents under the dependency,
19 delinquency, or transition jurisdiction of the court.

20 (b) Access to the nonminor dependent court file shall be limited
21 to all of the following:

22 (1) Court personnel.

23 (2) The district attorney, if the nonminor dependent is also a
24 delinquent ward.

25 (3) The nonminor dependent.

26 (4) The attorney for the nonminor dependent.

27 (5) Judges, referees, and other hearing officers actively
28 participating in juvenile proceedings involving the nonminor
29 dependent.

30 (6) The social services agency or probation department.

31 (7) The State Department of Social Services, to carry out its
32 duties pursuant to Division 9 (commencing with Section 10000),
33 and Part 5 (commencing with Section 7900) of Division 12 of the
34 Family Code, to oversee and monitor county child welfare
35 agencies, children in foster care or receiving foster care assistance;
36 and out-of-state placements, Section 10850.4, and pursuant to
37 Section 2.

38 (8) The county counsel.

39 (9) Authorized legal staff or special investigators who are peace
40 officers who are employed by, or who are authorized

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

28 (c) The nonminor dependent's parent and the parent's attorney
29 may only access the file if the parent is still receiving reunification
30 services.

31 (d) All other individuals requesting access to the court file must
32 be designated by court order of the judge of the juvenile court upon
33 filing a petition, which shall be determined pursuant to Section
34 827.

35 ~~SEC. 19.~~

36 *SEC. 18.* Section 366 of the Welfare and Institutions Code is
37 amended to read:

38 366. (a) (1) The status of every dependent child in foster care
39 shall be reviewed periodically as determined by the court but no
40 less frequently than once every six months, as calculated from the

1 date of the original dispositional hearing, until the hearing
2 described in Section 366.26 is completed. The court shall consider
3 the safety of the child and shall determine all of the following:

4 (A) The continuing necessity for and appropriateness of the
5 placement.

6 (B) The extent of the agency's compliance with the case plan
7 in making reasonable efforts, or, in the case of an Indian child,
8 active efforts as described in Section 361.7, to return the child to
9 a safe home and to complete any steps necessary to finalize the
10 permanent placement of the child, including efforts to maintain
11 relationships between a child who is 10 years of age or older and
12 who has been in an out-of-home placement for six months or
13 longer, and individuals other than the child's siblings who are
14 important to the child, consistent with the child's best interests.

15 (C) Whether there should be any limitation on the right of the
16 parent or guardian to make educational decisions or developmental
17 services decisions for the child. That limitation shall be specifically
18 addressed in the court order and may not exceed those necessary
19 to protect the child. Whenever the court specifically limits the right
20 of the parent or guardian to make educational decisions or
21 developmental services decisions for the child, the court shall at
22 the same time appoint a responsible adult to make educational
23 decisions *or developmental services decisions* for the child pursuant
24 to Section 361.

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

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

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

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

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

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

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

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

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

11 (F) If the review hearing is the last review hearing to be held
12 before the child attains 18 years of age, the court shall conduct the
13 hearing pursuant to Section 366.31 or 366.32.

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

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

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

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

29 (e) The implementation and operation of the amendments to
30 subparagraph (B) of paragraph (1) of subdivision (a) enacted at
31 the 2005–06 Regular Session shall be subject to appropriation
32 through the budget process and by phase, as provided in Section
33 366.35.

34 (f) The status review of every nonminor dependent, as defined
35 in subdivision (v) of Section 11400, shall be conducted pursuant
36 to Sections 366.3, 366.31, or 366.32, and 16503 until dependency
37 jurisdiction is terminated pursuant to Section 391.

38 ~~SEC. 20.~~

39 *SEC. 19.* Section 366.21 of the Welfare and Institutions Code
40 is amended to read:

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

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

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

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

5 (d) Prior to any hearing involving a child in the physical custody
6 of a community care facility or a foster family agency that may
7 result in the return of the child to the physical custody of his or
8 her parent or legal guardian, or in adoption or the creation of a
9 legal guardianship, or in the case of an Indian child, in consultation
10 with the child's tribe, tribal customary adoption, the facility or
11 agency shall file with the court a report, or a Judicial Council
12 Caregiver Information Form (JV-290), containing its
13 recommendation for disposition. Prior to the hearing involving a
14 child in the physical custody of a foster parent, a relative caregiver,
15 or a certified foster parent who has been approved for adoption by
16 the State Department of Social Services when it is acting as an
17 adoption agency or by a county adoption agency, the foster parent,
18 relative caregiver, or the certified foster parent who has been
19 approved for adoption by the State Department of Social Services
20 when it is acting as an adoption agency or by a county adoption
21 agency, may file with the court a report containing his or her
22 recommendation for disposition. The court shall consider the report
23 and recommendation filed pursuant to this subdivision prior to
24 determining any disposition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) Order that a hearing be held within 120 days, pursuant to
32 Section 366.26, but only if the court does not continue the case to
33 the permanency planning review hearing and there is clear and
34 convincing evidence that reasonable services have been provided
35 or offered to the parents or legal guardians. On and after January
36 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
37 if the child is a nonminor dependent, unless the nonminor
38 dependent is an Indian child and tribal customary adoption is
39 recommended as the permanent plan.

1 (3) Order that the child remain in long-term foster care, but only
2 if the court finds by clear and convincing evidence, based upon
3 the evidence already presented to it, including a recommendation
4 by the State Department of Social Services when it is acting as an
5 adoption agency or by a county adoption agency, that there is a
6 compelling reason for determining that a hearing held pursuant to
7 Section 366.26 is not in the best interest of the child because the
8 child is not a proper subject for adoption and has no one willing
9 to accept legal guardianship. For purposes of this section, a
10 recommendation by the State Department of Social Services when
11 it is acting as an adoption agency or by a county adoption agency
12 that adoption is not in the best interest of the child shall constitute
13 a compelling reason for the court's determination. That
14 recommendation shall be based on the present circumstances of
15 the child and shall not preclude a different recommendation at a
16 later date if the child's circumstances change. On and after January
17 1, 2012, the nonminor dependent's legal status as an adult is in
18 and of itself a compelling reason not to hold a hearing pursuant to
19 Section 366.26. The court may order that a nonminor dependent
20 who otherwise is eligible pursuant to Section 11403 remain in a
21 planned, permanent living arrangement.

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

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

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

1 orders to enable the child to maintain relationships with individuals,
2 other than the child’s siblings, who are important to the child,
3 consistent with the child’s best interests. When the court orders a
4 termination of reunification services to the parent or legal guardian,
5 it shall also order that the child’s caregiver receive the child’s birth
6 certificate in accordance with Sections 16010.4 and 16010.5.
7 Additionally, when the court orders a termination of reunification
8 services to the parent or legal guardian, it shall order, when
9 appropriate, that a child who is 16 years of age or older receive
10 his or her birth certificate.

11 (i) (1) Whenever a court orders that a hearing pursuant to
12 Section 366.26, including, when, in consultation with the child’s
13 tribe, tribal customary adoption is recommended, shall be held, it
14 shall direct the agency supervising the child and the county
15 adoption agency, or the State Department of Social Services when
16 it is acting as an adoption agency, to prepare an assessment that
17 shall include:

18 (A) Current search efforts for an absent parent or parents or
19 legal guardians.

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

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

29 (D) A preliminary assessment of the eligibility and commitment
30 of any identified prospective adoptive parent or legal guardian,
31 including the prospective tribal customary adoptive parent,
32 particularly the caretaker, to include a social history including
33 screening for criminal records and prior referrals for child abuse
34 or neglect, the capability to meet the child’s needs, and the
35 understanding of the legal and financial rights and responsibilities
36 of adoption and guardianship. If a proposed guardian is a relative
37 of the minor, the assessment shall also consider, but need not be
38 limited to, all of the factors specified in subdivision (a) of Section
39 361.3 and in Section 361.4.

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

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

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

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

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

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

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

37 (B) A relative caregiver shall be given information regarding
38 the permanency options of guardianship and adoption, including
39 the long-term benefits and consequences of each option, prior to
40 establishing legal guardianship or pursuing adoption. If the

1 proposed permanent plan is guardianship with an approved relative
2 caregiver for a minor eligible for aid under the Kin-GAP Program,
3 as provided for in Article 4.7 (commencing with Section 11385)
4 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
5 be informed about the terms and conditions of the negotiated
6 agreement pursuant to Section 11387 and shall agree to its
7 execution prior to the hearing held pursuant to Section 366.26. A
8 copy of the executed negotiated agreement shall be attached to the
9 assessment.

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

17 (k) As used in this section, “relative” means an adult who is
18 related to the minor by blood, adoption, or affinity within the fifth
19 degree of kinship, including stepparents, stepsiblings, and all
20 relatives whose status is preceded by the words “great,”
21 “great-great,” or “grand,” or the spouse of any of those persons
22 even if the marriage was terminated by death or dissolution. If the
23 proposed permanent plan is guardianship with an approved relative
24 caregiver for a minor eligible for aid under the Kin-GAP Program,
25 as provided for in Article 4.7 (commencing with Section 11385)
26 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
27 section has the same meaning as “relative” as defined in
28 subdivision (c) of Section 11391.

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

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

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

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

39 (m) The implementation and operation of the amendments to
40 subdivisions (c) and (g) enacted at the 2005–06 Regular Session

1 shall be subject to appropriation through the budget process and
2 by phase, as provided in Section 366.35.

3 ~~SEC. 21.~~

4 *SEC. 20.* Section 366.22 of the Welfare and Institutions Code
5 is amended to read:

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

39 Whether or not the child is returned to his or her parent or legal
40 guardian, the court shall specify the factual basis for its decision.

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

9 Unless the conditions in subdivision (b) are met and the child is
10 not returned to a parent or legal guardian at the permanency review
11 hearing, the court shall order that a hearing be held pursuant to
12 Section 366.26 in order to determine whether adoption, or, in the
13 case of an Indian child, in consultation with the child's tribe, tribal
14 customary adoption, guardianship, or long-term foster care is the
15 most appropriate plan for the child. On and after January 1, 2012,
16 a hearing pursuant to Section 366.26 shall not be ordered if the
17 child is a nonminor dependent, *unless the nonminor dependent is*
18 *an Indian child, and tribal customary adoption is recommended*
19 *as the permanent plan.* However, if the court finds by clear and
20 convincing evidence, based on the evidence already presented to
21 it, including a recommendation by the State Department of Social
22 Services when it is acting as an adoption agency or by a county
23 adoption agency, that there is a compelling reason, as described
24 in paragraph (3) of subdivision (g) of Section 366.21, for
25 determining that a hearing held under Section 366.26 is not in the
26 best interest of the child because the child is not a proper subject
27 for adoption and has no one willing to accept legal guardianship,
28 then the court may, only under these circumstances, order that the
29 child remain in long-term foster care. On and after January 1, 2012,
30 the nonminor dependent's legal status as an adult is in and of itself
31 a compelling reason not to hold a hearing pursuant to Section
32 366.26. The court may order that a nonminor dependent who
33 otherwise is eligible pursuant to Section 11403 remain in a planned,
34 permanent living arrangement. If the court orders that a child who
35 is 10 years of age or older remain in long-term foster care, the
36 court shall determine whether the agency has made reasonable
37 efforts to maintain the child's relationships with individuals other
38 than the child's siblings who are important to the child, consistent
39 with the child's best interests, and may make any appropriate order
40 to ensure that those relationships are maintained. The hearing shall

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

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

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

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

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

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

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

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

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

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

26 (c) (1) Whenever a court orders that a hearing pursuant to
27 Section 366.26, including when a tribal customary adoption is
28 recommended, shall be held, it shall direct the agency supervising
29 the child and the county adoption agency, or the State Department
30 of Social Services when it is acting as an adoption agency, to
31 prepare an assessment that shall include:

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

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

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

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

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

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

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

33 (i) Whether tribal customary adoption would or would not be
34 detrimental to the Indian child and the reasons for reaching that
35 conclusion.

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

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

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

5 (B) A relative caregiver shall be given information regarding
6 the permanency options of guardianship and adoption, including
7 the long-term benefits and consequences of each option, prior to
8 establishing legal guardianship or pursuing adoption. If the
9 proposed permanent plan is guardianship with an approved relative
10 caregiver for a minor eligible for aid under the Kin-GAP Program,
11 as provided for in Article 4.7 (commencing with Section 11385)
12 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
13 be informed about the terms and conditions of the negotiated
14 agreement pursuant to Section 11387 and shall agree to its
15 execution prior to the hearing held pursuant to Section 366.26. A
16 copy of the executed negotiated agreement shall be attached to the
17 assessment.

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

26 (e) As used in this section, “relative” means an adult who is
27 related to the child by blood, adoption, or affinity within the fifth
28 degree of kinship, including stepparents, stepsiblings, and all
29 relatives whose status is preceded by the words “great,”
30 “great-great,” or “grand,” or the spouse of any of those persons
31 even if the marriage was terminated by death or dissolution. If the
32 proposed permanent plan is guardianship with an approved relative
33 caregiver for a minor eligible for aid under the Kin-GAP Program,
34 as provided for in Article 4.7 (commencing with Section 11385)
35 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
36 section has the same meaning as “relative” as defined in
37 subdivision (c) of Section 11391.

38 (f) The implementation and operation of the amendments to
39 subdivision (a) enacted at the 2005–06 Regular Session shall be

1 subject to appropriation through the budget process and by phase,
2 as provided in Section 366.35.

3 ~~SEC. 22.~~

4 *SEC. 21.* Section 366.24 of the Welfare and Institutions Code
5 is amended to read:

6 366.24. (a) (1) For purposes of this section, “tribal customary
7 adoption” means adoption by and through the tribal custom,
8 traditions, or law of an Indian child’s tribe. Termination of parental
9 rights is not required to effect the tribal customary adoption.

10 (2) For purposes of this section, “Indian child” also includes a
11 nonminor dependent as described in subdivision (v) of Section
12 11400, unless the nonminor dependent has elected not to be
13 considered an Indian child pursuant to subdivision (b) of Section
14 224.1.

15 (b) Whenever an assessment is ordered pursuant to Section
16 361.5, 366.21, 366.22, 366.25, or 366.26 for Indian children, the
17 assessment shall address the option of tribal customary adoption.

18 (c) For purposes of Section 366.26, in the case of tribal
19 customary adoptions, all of the following apply:

20 (1) The child’s tribe or the tribe’s designee shall conduct a tribal
21 customary adoptive home study prior to final approval of the tribal
22 customary adoptive placement.

23 (A) If a tribal designee is conducting the home study, the
24 designee shall do so in consultation with the Indian child’s tribe.
25 The designee may include a county adoption agency, the State
26 Department of Social Services when it is acting as an adoption
27 agency, or a California-licensed adoption agency. Any tribal
28 designee must be an entity that is authorized to request a search
29 of the Child Abuse Central Index and, if necessary, a check of any
30 other state’s child abuse and neglect registry, and must be an entity
31 that is authorized to request a search for state and federal level
32 criminal offender records information through the Department of
33 Justice.

34 (B) The standard for the evaluation of the prospective adoptive
35 parents’ home shall be the prevailing social and cultural standard
36 of the child’s tribe. The home study shall include an evaluation of
37 the background, safety, and health information of the adoptive
38 home, including the biological, psychological, and social factors
39 of the prospective adoptive parent or parents, and an assessment

1 of the commitment, capability, and suitability of the prospective
2 adoptive parent or parents to meet the child's needs.

3 (2) In all cases, an in-state check of the Child Abuse Central
4 Index and, if necessary, a check of any other state's child abuse
5 and neglect registry shall be conducted. If the tribe chooses a
6 designee to conduct the home study, the designee shall perform a
7 check of the Child Abuse Central Index pursuant to Section 1522.1
8 of the Health and Safety Code as it applies to prospective adoptive
9 parents and persons over 18 years of age residing in their
10 household. If the tribe conducts its own home study, the agency
11 that has the placement and care responsibility of the child shall
12 perform the check.

13 (3) (A) In all cases prior to final approval of the tribal customary
14 adoptive placement, a state and federal criminal background check
15 through the Department of Justice shall be conducted on the
16 prospective tribal customary adoptive parents and on persons over
17 18 years of age residing in their household.

18 (B) If the tribe chooses a designee to conduct the home study,
19 the designee shall perform the state and federal criminal
20 background check required pursuant to subparagraph (A) through
21 the Department of Justice prior to final approval of the adoptive
22 placement.

23 (C) If the tribe conducts its own home study, the public adoption
24 agency that is otherwise authorized to obtain criminal background
25 information for the purpose of adoption shall perform the state and
26 federal criminal background check required pursuant to
27 subparagraph (A) through the Department of Justice prior to final
28 approval of the adoptive placement.

29 (D) An individual who is the subject of a background check
30 conducted pursuant to this paragraph may be provided by the entity
31 performing the background check with a copy of his or her state
32 or federal level criminal offender record information search
33 response as provided to that entity by the Department of Justice if
34 the entity has denied a criminal background clearance based on
35 this information and the individual makes a written request to the
36 entity for a copy specifying an address to which it is to be sent.
37 The state or federal level criminal offender record information
38 search response shall not be modified or altered from its form or
39 content as provided by the Department of Justice and shall be
40 provided to the address specified by the individual in his or her

1 written request. The entity shall retain a copy of the individual's
2 written request and the response and date provided.

3 (4) If federal or state law provides that tribes may conduct all
4 required background checks for prospective adoptive parents, the
5 tribally administered background checks shall satisfy the
6 requirements of this section, so long as the standards for the
7 background checks are the same as those applied to all other
8 prospective adoptive parents in the State of California.

9 (5) Under no circumstances shall final approval be granted for
10 an adoptive placement in any home if the prospective adoptive
11 parent or any adult living in the prospective tribal customary
12 adoptive home has any of the following:

13 (A) A felony conviction for child abuse or neglect, spousal
14 abuse, crimes against a child, including child pornography, or a
15 crime involving violence, including rape, sexual assault, or
16 homicide, but not including other physical assault and battery. For
17 purposes of this subdivision, crimes involving violence means
18 those violent crimes contained in clause (i) of subparagraph (A)
19 and subparagraph (B), or paragraph (1) of, subdivision (g) of
20 Section 1522 of the Health and Safety Code.

21 (B) A felony conviction that occurred within the last five years
22 for physical assault, battery, or a drug-related offense.

23 (6) If the tribe identifies tribal customary adoption as the
24 permanent placement plan for the Indian child, the court may
25 continue the selection and implementation hearing governed by
26 Section 366.26 for a period not to exceed 120 days to permit the
27 tribe to complete the process for tribal customary adoption and
28 file with the court a tribal customary adoption order evidencing
29 that a tribal customary adoption has been completed. The tribe
30 shall file with the court the tribal customary adoption order no less
31 than 20 days prior to the date set by the court for the continued
32 selection and implementation hearing. The department shall file
33 with the court the addendum selection and implementation hearing
34 court report no less than seven days prior to the date set by the
35 court for the continued selection and implementation hearing. The
36 court shall have discretion to grant an additional continuance to
37 the tribe for filing a tribal customary adoption order up to, but not
38 exceeding, 60 days. If the child's tribe does not file the tribal
39 customary adoption order within the designated time period, the
40 court shall make new findings and orders pursuant to subdivision

1 (b) of Section 366.26 and this subdivision to determine the best
2 permanent plan for the child.

3 (7) The child, birth parents, or Indian custodian and the tribal
4 customary adoptive parents and their counsel, if applicable, may
5 present evidence to the tribe regarding the tribal customary
6 adoption and the child’s best interest.

7 (8) Upon the court affording full faith and credit to the tribal
8 customary adoption order and the tribe’s approval of the home
9 study, the child shall be eligible for tribal customary adoptive
10 placement. The agency that has placement and care responsibility
11 of the child shall be authorized to make a tribal customary adoptive
12 placement and sign a tribal customary adoptive placement
13 agreement and, thereafter, shall sign the adoption assistance
14 agreement pursuant to subdivision (g) of Section 16120. The
15 prospective adoptive parent or parents desiring to adopt the child
16 may then file the petition for adoption. The agency shall supervise
17 the adoptive placement for a period of six months unless either of
18 the following circumstances exists:

19 (A) The child to be adopted is a foster child of the prospective
20 adoptive parents whose foster care placement has been supervised
21 by an agency before the signing of the adoptive placement
22 agreement in which case the supervisory period may be shortened
23 by one month for each full month that the child has been in foster
24 care with the family.

25 (B) The child to be adopted is placed with a relative with whom
26 he or she has an established relationship.

27 (9) All licensed public adoption agencies shall cooperate with
28 and assist the department in devising a plan that will effectuate
29 the effective and discreet transmission to tribal customary adoptees
30 or prospective tribal customary adoptive parents of pertinent
31 medical information reported to the department or the licensed
32 public adoption agency, upon the request of the person reporting
33 the medical information.

34 (A) A licensed public adoption agency may not place a child
35 for tribal customary adoption unless a written report on the child’s
36 medical background and, if available, the medical background on
37 the child’s biological parents, so far as ascertainable, has been
38 submitted to the prospective tribal customary adoptive parents and
39 they have acknowledged in writing the receipt of the report.

1 (B) The report on the child’s background shall contain all known
2 diagnostic information, including current medical reports on the
3 child, psychological evaluations, and scholastic information, as
4 well as all known information regarding the child’s developmental
5 history.

6 (10) The tribal customary adoption order shall include, but not
7 be limited to, a description of (A) the modification of the legal
8 relationship of the birth parents or Indian custodian and the child,
9 including contact, if any, between the child and the birth parents
10 or Indian custodian, responsibilities of the birth parents or Indian
11 custodian, and the rights of inheritance of the child and (B) the
12 child’s legal relationship with the tribe. The order shall not include
13 any child support obligation from the birth parents or Indian
14 custodian. There shall be a conclusive presumption that any
15 parental rights or obligations not specified in the tribal customary
16 adoption order shall vest in the tribal customary adoptive parents.

17 (11) Prior consent to a permanent plan of tribal customary
18 adoption of an Indian child shall not be required of an Indian parent
19 or Indian custodian whose parental relationship to the child will
20 be modified by the tribal customary adoption.

21 (12) After the prospective adoptive parent or parents desiring
22 to adopt the child have filed the adoption petition, the agency that
23 has placement, care, and responsibility for the child shall submit
24 to the court, a full and final report of the facts of the proposed
25 tribal customary adoption. The requisite elements of the final court
26 report shall be those specified for court reports in the department’s
27 regulations governing agency adoptions.

28 (13) Notwithstanding any other provision of law, after the tribal
29 customary adoption order has been issued and afforded full faith
30 and credit by the state court, supervision of the adoptive placement
31 has been completed, and the state court has issued a final decree
32 of adoption, the tribal customary adoptive parents shall have all
33 of the rights and privileges afforded to, and are subject to all the
34 duties of, any other adoptive parent or parents pursuant to the laws
35 of this state.

36 (14) Consistent with Section 366.3, after the tribal customary
37 adoption has been afforded full faith and credit and a final adoption
38 decree has been issued, the court shall terminate its jurisdiction
39 over the Indian child.

1 (15) Nothing in this section is intended to prevent the transfer
2 of those proceedings to a tribal court where transfer is otherwise
3 permitted under applicable law.

4 (d) The following disclosure provisions shall apply to tribal
5 customary adoptions:

6 (1) The petition, agreement, order, report to the court from any
7 investigating agency, and any power of attorney filed in a tribal
8 customary adoption proceeding is not open to inspection by any
9 person other than the parties to the proceeding and their attorneys
10 and the department, except upon the written authority of the judge
11 of the juvenile court. A judge may not authorize anyone to inspect
12 the petition, agreement, order, report to the court from any
13 investigating agency, and any power of attorney except in
14 exceptional circumstances and for good cause approaching the
15 necessitous.

16 (2) Except as otherwise permitted or required by statute, neither
17 the department, county adoption agency, nor any licensed adoption
18 agency shall release information that would identify persons who
19 receive, or have received, tribal customary adoption services.
20 However, employees of the department, county adoption agencies,
21 and licensed adoption agencies shall release to the State
22 Department of Social Services any requested information, including
23 identifying information, for the purpose of recordkeeping and
24 monitoring, evaluation, and regulation of the provision of tribal
25 customary adoption services.

26 (3) The department, county adoption agency, or licensed
27 adoption agency may, upon written authorization for the release
28 of specified information by the subject of that information, share
29 information regarding a prospective tribal customary adoptive
30 parent or birth parent with other social service agencies, including
31 the department, county adoption agencies, and other licensed
32 adoption agencies, or providers of health care as defined in Section
33 56.05 of the Civil Code.

34 (4) Notwithstanding any other law, the department, county
35 adoption agency, or licensed adoption agency may furnish
36 information relating to a tribal customary adoption petition or to
37 a child in the custody of the department or any public adoption
38 agency to the juvenile court, county welfare department, public
39 welfare agency, private welfare agency licensed by the department,
40 provider of foster care services, potential adoptive parents, or

1 provider of health care as defined in Section 56.05 of the Civil
2 Code, if it is believed the child's welfare will be promoted thereby.

3 (5) The department, county adoption agency, or licensed
4 adoption agency may make tribal customary adoption case records,
5 including identifying information, available for research purposes,
6 provided that the research will not result in the disclosure of the
7 identity of the child or the parties to the tribal customary adoption
8 to anyone other than the entity conducting the research.

9 (e) This section shall remain operative only to the extent that
10 compliance with its provisions does not conflict with federal law
11 as a condition of receiving funding under Title IV-E or the federal
12 Social Security Act (42 U.S.C. Sec. 670 et seq.).

13 (f) The Judicial Council shall adopt rules of court and necessary
14 forms required to implement tribal customary adoption as a
15 permanent plan for dependent Indian children. The Judicial Council
16 shall study California's tribal customary adoption provisions and
17 their effects on children, birth parents, adoptive parents, Indian
18 custodians, tribes, and the court, and shall report all of its findings
19 to the Legislature on or before January 1, 2013. The report shall
20 include, but not be limited to, the following:

21 (1) The number of families served and the number of completed
22 tribal customary adoptions.

23 (2) The length of time it takes to complete a tribal customary
24 adoption.

25 (3) The challenges faced by social workers, court, and tribes in
26 completing tribal customary adoptions.

27 (4) The benefits or detriments to Indian children from a tribal
28 customary adoption.

29 ~~SEC. 23.~~

30 *SEC. 22.* Section 366.25 of the Welfare and Institutions Code
31 is amended to read:

32 366.25. (a) (1) When a case has been continued pursuant to
33 subdivision (b) of Section 366.22, the subsequent permanency
34 review hearing shall occur within 24 months after the date the
35 child was originally removed from the physical custody of his or
36 her parent or legal guardian. The court shall order the return of the
37 child to the physical custody of his or her parent or legal guardian
38 unless the court finds, by a preponderance of the evidence, that
39 the return of the child to his or her parent or legal guardian would
40 create a substantial risk of detriment to the safety, protection, or

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

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

32 (3) If the child is not returned to a parent or legal guardian at
33 the subsequent permanency review hearing, the court shall order
34 that a hearing be held pursuant to Section 366.26 in order to
35 determine whether adoption, or, in the case of an Indian child,
36 tribal customary adoption, guardianship, or long-term foster care
37 is the most appropriate plan for the child. On and after January 1,
38 2012, a hearing pursuant to Section 366.26 shall not be ordered if
39 the child is a nonminor dependent, unless the nonminor dependent
40 is an Indian child and tribal customary adoption is recommended

1 as the permanent plan. However, if the court finds by clear and
2 convincing evidence, based on the evidence already presented to
3 it, including a recommendation by the State Department of Social
4 Services when it is acting as an adoption agency or by a county
5 adoption agency, that there is a compelling reason, as described
6 in paragraph (3) of subdivision (g) of Section 366.21, for
7 determining that a hearing held under Section 366.26 is not in the
8 best interest of the child because the child is not a proper subject
9 for adoption or, in the case of an Indian child, tribal customary
10 adoption, and has no one willing to accept legal guardianship, then
11 the court may, only under these circumstances, order that the child
12 remain in long-term foster care. On and after January 1, 2012, the
13 nonminor dependent's legal status as an adult is in and of itself a
14 compelling reason not to hold a hearing pursuant to Section 366.26.
15 The court may order that a nonminor dependent who otherwise is
16 eligible pursuant to Section 11403 remain in a planned, permanent
17 living arrangement. If the court orders that a child who is 10 years
18 of age or older remain in long-term foster care, the court shall
19 determine whether the agency has made reasonable efforts to
20 maintain the child's relationships with individuals other than the
21 child's siblings who are important to the child, consistent with the
22 child's best interests, and may make any appropriate order to ensure
23 that those relationships are maintained. The hearing shall be held
24 no later than 120 days from the date of the subsequent permanency
25 review hearing. The court shall also order termination of
26 reunification services to the parent or legal guardian. The court
27 shall continue to permit the parent or legal guardian to visit the
28 child unless it finds that visitation would be detrimental to the
29 child. The court shall determine whether reasonable services have
30 been offered or provided to the parent or legal guardian. For
31 purposes of this subdivision, evidence of any of the following
32 circumstances shall not, in and of themselves, be deemed a failure
33 to provide or offer reasonable services:

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

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

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

1 (b) (1) Whenever a court orders that a hearing pursuant to
2 Section 366.26 shall be held, it shall direct the agency supervising
3 the child and the county adoption agency, or the State Department
4 of Social Services when it is acting as an adoption agency, to
5 prepare an assessment that shall include:

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

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

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

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

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

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

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

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

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

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

21 (B) A relative caregiver shall be given information regarding
22 the permanency options of guardianship and adoption, including
23 the long-term benefits and consequences of each option, prior to
24 establishing legal guardianship or pursuing adoption. If the
25 proposed permanent plan is guardianship with an approved relative
26 caregiver for a minor eligible for aid under the Kin-GAP Program,
27 as provided for in Article 4.7 (commencing with Section 11385)
28 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
29 be informed about the terms and conditions of the negotiated
30 agreement pursuant to Section 11387 and shall agree to its
31 execution prior to the hearing held pursuant to Section 366.26. A
32 copy of the executed negotiated agreement shall be attached to the
33 assessment.

34 (c) If, at any hearing held pursuant to Section 366.26, a
35 guardianship is established for the minor with an approved relative
36 caregiver, and juvenile court dependency is subsequently
37 dismissed, the minor shall be eligible for aid under the Kin-GAP
38 Program, as provided for in Article 4.5 (commencing with Section
39 11360) or Article 4.7 (commencing with Section 11385), as
40 applicable, of Chapter 2 of Part 3 of Division 9.

1 (d) As used in this section, “relative” means an adult who is
2 related to the minor by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution. If the
7 proposed permanent plan is guardianship with an approved relative
8 caregiver for a minor eligible for aid under the Kin-GAP Program,
9 as provided in Article 4.7 (commencing with Section 11385) of
10 Chapter 2 of Part 3 of Division 9, “relative” as used in this section
11 has the same meaning as “relative” as defined in subdivision (c)
12 of Section 11391.

13 (e) The implementation and operation of subdivision (a) enacted
14 at the 2005–06 Regular Session shall be subject to appropriation
15 through the budget process and by phase, as provided in Section
16 366.35.

17 ~~SEC. 24.~~

18 *SEC. 23.* Section 366.26 of the Welfare and Institutions Code
19 is amended to read:

20 366.26. (a) This section applies to children who are adjudged
21 dependent children of the juvenile court pursuant to subdivision
22 (d) of Section 360. The procedures specified herein are the
23 exclusive procedures for conducting these hearings; Part 2
24 (commencing with Section 3020) of Division 8 of the Family Code
25 is not applicable to these proceedings. Section 8616.5 of the Family
26 Code is applicable and available to all dependent children meeting
27 the requirements of that section, if the postadoption contact
28 agreement has been entered into voluntarily. For children who are
29 adjudged dependent children of the juvenile court pursuant to
30 subdivision (d) of Section 360, this section and Sections 8604,
31 8605, 8606, and 8700 of the Family Code and Chapter 5
32 (commencing with Section 7660) of Part 3 of Division 12 of the
33 Family Code specify the exclusive procedures for permanently
34 terminating parental rights with regard to, or establishing legal
35 guardianship of, the child while the child is a dependent child of
36 the juvenile court.

37 (b) At the hearing, which shall be held in juvenile court for all
38 children who are dependents of the juvenile court, the court, in
39 order to provide stable, permanent homes for these children, shall
40 review the report as specified in Section 361.5, 366.21, 366.22, or

1 366.25, shall indicate that the court has read and considered it,
2 shall receive other evidence that the parties may present, and then
3 shall make findings and orders in the following order of preference:

4 (1) Terminate the rights of the parent or parents and order that
5 the child be placed for adoption and, upon the filing of a petition
6 for adoption in the juvenile court, order that a hearing be set. The
7 court shall proceed with the adoption after the appellate rights of
8 the natural parents have been exhausted.

9 (2) Order, without termination of parental rights, the plan of
10 tribal customary adoption, as described in Section 366.24, through
11 tribal custom, traditions, or law of the Indian child's tribe, and
12 upon the court affording the tribal customary adoption order full
13 faith and credit at the continued selection and implementation
14 hearing, order that a hearing be set pursuant to paragraph (2) of
15 subdivision (e).

16 (3) Appoint a relative or relatives with whom the child is
17 currently residing as legal guardian or guardians for the child, and
18 order that letters of guardianship issue.

19 (4) On making a finding under paragraph (3) of subdivision (c),
20 identify adoption or tribal customary adoption as the permanent
21 placement goal and order that efforts be made to locate an
22 appropriate adoptive family for the child within a period not to
23 exceed 180 days.

24 (5) Appoint a nonrelative legal guardian for the child and order
25 that letters of guardianship issue.

26 (6) Order that the child be placed in long-term foster care,
27 subject to the periodic review of the juvenile court under Section
28 366.3.

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

31 (c) (1) If the court determines, based on the assessment provided
32 as ordered under subdivision (i) of Section 366.21, subdivision (b)
33 of Section 366.22, or subdivision (b) of Section 366.25, and any
34 other relevant evidence, by a clear and convincing standard, that
35 it is likely the child will be adopted, the court shall terminate
36 parental rights and order the child placed for adoption. The fact
37 that the child is not yet placed in a preadoptive home nor with a
38 relative or foster family who is prepared to adopt the child, shall
39 not constitute a basis for the court to conclude that it is not likely
40 the child will be adopted. A finding under subdivision (b) or

1 paragraph (1) of subdivision (e) of Section 361.5 that reunification
2 services shall not be offered, under subdivision (e) of Section
3 366.21 that the whereabouts of a parent have been unknown for
4 six months or that the parent has failed to visit or contact the child
5 for six months, or that the parent has been convicted of a felony
6 indicating parental unfitness, or, under Section 366.21 or 366.22,
7 that the court has continued to remove the child from the custody
8 of the parent or guardian and has terminated reunification services,
9 shall constitute a sufficient basis for termination of parental rights.
10 Under these circumstances, the court shall terminate parental rights
11 unless either of the following applies:

12 (A) The child is living with a relative who is unable or unwilling
13 to adopt the child because of circumstances that do not include an
14 unwillingness to accept legal or financial responsibility for the
15 child, but who is willing and capable of providing the child with
16 a stable and permanent environment through legal guardianship,
17 and the removal of the child from the custody of his or her relative
18 would be detrimental to the emotional well-being of the child. For
19 purposes of an Indian child, “relative” shall include an “extended
20 family member,” as defined in the federal Indian Child Welfare
21 Act (25 U.S.C. Sec. 1903(2)).

22 (B) The court finds a compelling reason for determining that
23 termination would be detrimental to the child due to one or more
24 of the following circumstances:

25 (i) The parents have maintained regular visitation and contact
26 with the child and the child would benefit from continuing the
27 relationship.

28 (ii) A child 12 years of age or older objects to termination of
29 parental rights.

30 (iii) The child is placed in a residential treatment facility,
31 adoption is unlikely or undesirable, and continuation of parental
32 rights will not prevent finding the child a permanent family
33 placement if the parents cannot resume custody when residential
34 care is no longer needed.

35 (iv) The child is living with a foster parent or Indian custodian
36 who is unable or unwilling to adopt the child because of
37 exceptional circumstances, that do not include an unwillingness
38 to accept legal or financial responsibility for the child, but who is
39 willing and capable of providing the child with a stable and
40 permanent environment and the removal of the child from the

1 physical custody of his or her foster parent or Indian custodian
2 would be detrimental to the emotional well-being of the child. This
3 clause does not apply to any child who is either (I) under six years
4 of age or (II) a member of a sibling group where at least one child
5 is under six years of age and the siblings are, or should be,
6 permanently placed together.

7 (v) There would be substantial interference with a child's sibling
8 relationship, taking into consideration the nature and extent of the
9 relationship, including, but not limited to, whether the child was
10 raised with a sibling in the same home, whether the child shared
11 significant common experiences or has existing close and strong
12 bonds with a sibling, and whether ongoing contact is in the child's
13 best interest, including the child's long-term emotional interest,
14 as compared to the benefit of legal permanence through adoption.

15 (vi) The child is an Indian child and there is a compelling reason
16 for determining that termination of parental rights would not be
17 in the best interest of the child, including, but not limited to:

18 (I) Termination of parental rights would substantially interfere
19 with the child's connection to his or her tribal community or the
20 child's tribal membership rights.

21 (II) The child's tribe has identified guardianship, long-term
22 foster care with a fit and willing relative, tribal customary adoption,
23 or another planned permanent living arrangement for the child.

24 (III) The child is a nonminor dependent, and the nonminor and
25 the nonminor's tribe have identified tribal customary adoption for
26 the nonminor.

27 (C) For purposes of subparagraph (B), in the case of tribal
28 customary adoptions, Section 366.24 shall apply.

29 (D) If the court finds that termination of parental rights would
30 be detrimental to the child pursuant to clause (i), (ii), (iii), (iv),
31 (v), or (vi), it shall state its reasons in writing or on the record.

32 (2) The court shall not terminate parental rights if:

33 (A) At each hearing at which the court was required to consider
34 reasonable efforts or services, the court has found that reasonable
35 efforts were not made or that reasonable services were not offered
36 or provided.

37 (B) In the case of an Indian child:

38 (i) At the hearing terminating parental rights, the court has found
39 that active efforts were not made as required in Section 361.7.

1 (ii) The court does not make a determination at the hearing
2 terminating parental rights, supported by evidence beyond a
3 reasonable doubt, including testimony of one or more “qualified
4 expert witnesses” as defined in Section 224.6, that the continued
5 custody of the child by the parent is likely to result in serious
6 emotional or physical damage to the child.

7 (iii) The court has ordered tribal customary adoption pursuant
8 to Section 366.24.

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

37 (4) (A) If the court finds that adoption of the child or
38 termination of parental rights is not in the best interest of the child,
39 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
40 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)

1 applies, the court shall either order that the present caretakers or
2 other appropriate persons shall become legal guardians of the child
3 order that the child remain in long-term foster care, or, in the case
4 of an Indian child, consider a tribal customary adoption pursuant
5 to Section 366.24. Legal guardianship shall be considered before
6 long-term foster care, if it is in the best interests of the child and
7 if a suitable guardian can be found. A child who is 10 years of age
8 or older, shall be asked to identify any individuals, other than the
9 child's siblings, who are important to the child, in order to identify
10 potential guardians or, in the case of an Indian child, prospective
11 tribal customary adoptive parents. The agency may ask any other
12 child to provide that information, as appropriate.

13 (B) If the child is living with a relative or a foster parent who
14 is willing and capable of providing a stable and permanent
15 environment, but not willing to become a legal guardian, the child
16 shall not be removed from the home if the court finds the removal
17 would be seriously detrimental to the emotional well-being of the
18 child because the child has substantial psychological ties to the
19 relative caretaker or foster parents.

20 (C) The court shall also make an order for visitation with the
21 parents or guardians unless the court finds by a preponderance of
22 the evidence that the visitation would be detrimental to the physical
23 or emotional well-being of the child.

24 (5) If the court finds that the child should not be placed for
25 adoption, that legal guardianship shall not be established, and that
26 there are no suitable foster parents except exclusive-use homes
27 available to provide the child with a stable and permanent
28 environment, the court may order the care, custody, and control
29 of the child transferred from the county welfare department to a
30 licensed foster family agency. The court shall consider the written
31 recommendation of the county welfare director regarding the
32 suitability of the transfer. The transfer shall be subject to further
33 court orders.

34 The licensed foster family agency shall place the child in a
35 suitable licensed or exclusive-use home that has been certified by
36 the agency as meeting licensing standards. The licensed foster
37 family agency shall be responsible for supporting the child and
38 providing appropriate services to the child, including those services
39 ordered by the court. Responsibility for the support of the child
40 shall not, in and of itself, create liability on the part of the foster

1 family agency to third persons injured by the child. Those children
2 whose care, custody, and control are transferred to a foster family
3 agency shall not be eligible for foster care maintenance payments
4 or child welfare services, except for emergency response services
5 pursuant to Section 16504.

6 (d) The proceeding for the appointment of a guardian for a child
7 who is a dependent of the juvenile court shall be in the juvenile
8 court. If the court finds pursuant to this section that legal
9 guardianship is the appropriate permanent plan, it shall appoint
10 the legal guardian and issue letters of guardianship. The assessment
11 prepared pursuant to subdivision (g) of Section 361.5, subdivision
12 (i) of Section 366.21, subdivision (b) of Section 366.22, and
13 subdivision (b) of Section 366.25 shall be read and considered by
14 the court prior to the appointment, and this shall be reflected in
15 the minutes of the court. The person preparing the assessment may
16 be called and examined by any party to the proceeding.

17 (e) (1) The proceeding for the adoption of a child who is a
18 dependent of the juvenile court shall be in the juvenile court if the
19 court finds pursuant to this section that adoption is the appropriate
20 permanent plan and the petition for adoption is filed in the juvenile
21 court. Upon the filing of a petition for adoption, the juvenile court
22 shall order that an adoption hearing be set. The court shall proceed
23 with the adoption after the appellate rights of the natural parents
24 have been exhausted. The full report required by Section 8715 of
25 the Family Code shall be read and considered by the court prior
26 to the adoption and this shall be reflected in the minutes of the
27 court. The person preparing the report may be called and examined
28 by any party to the proceeding. It is the intent of the Legislature,
29 pursuant to this subdivision, to give potential adoptive parents the
30 option of filing in the juvenile court the petition for the adoption
31 of a child who is a dependent of the juvenile court. Nothing in this
32 section is intended to prevent the filing of a petition for adoption
33 in any other court as permitted by law, instead of in the juvenile
34 court.

35 (2) In the case of an Indian child, if the Indian child's tribe has
36 elected a permanent plan of tribal customary adoption, the court,
37 upon receiving the tribal customary adoption order will afford the
38 tribal customary adoption order full faith and credit to the same
39 extent that the court would afford full faith and credit to the public
40 acts, records, judicial proceedings, and judgments of any other

1 entity. Upon a determination that the tribal customary adoption
2 order may be afforded full faith and credit, consistent with Section
3 224.5, the court shall thereafter order a hearing to finalize the
4 adoption be set upon the filing of the adoption petition. The
5 prospective tribal customary adoptive parents and the child who
6 is the subject of the tribal customary adoption petition shall appear
7 before the court for the finalization hearing. The court shall
8 thereafter issue an order of adoption pursuant to Section 366.24.

9 (3) If a child who is the subject of a finalized tribal customary
10 adoption shows evidence of a developmental disability or mental
11 illness as a result of conditions existing before the tribal customary
12 adoption to the extent that the child cannot be relinquished to a
13 licensed adoption agency on the grounds that the child is considered
14 unadoptable, and of which condition the tribal customary adoptive
15 parent or parents had no knowledge or notice before the entry of
16 the tribal customary adoption order, a petition setting forth those
17 facts may be filed by the tribal customary adoptive parent or
18 parents with the juvenile court that granted the tribal customary
19 adoption petition. If these facts are proved to the satisfaction of
20 the juvenile court, it may make an order setting aside the tribal
21 customary adoption order. The set aside petition shall be filed
22 within five years of the issuance of the tribal customary adoption
23 order. The court clerk shall immediately notify the child's tribe
24 and the department in Sacramento of the petition within 60 days
25 after the notice of filing of the petition. The department shall file
26 a full report with the court and shall appear before the court for
27 the purpose of representing the child. Whenever a final decree of
28 tribal customary adoption has been vacated or set aside, the child
29 shall be returned to the custody of the county in which the
30 proceeding for tribal customary adoption was finalized. The
31 biological parent or parents of the child may petition for return of
32 custody. The disposition of the child after the court has entered an
33 order to set aside a tribal customary adoption shall include
34 consultation with the child's tribe.

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

38 (1) In accordance with subdivision (c) of Section 317, if a child
39 before the court is without counsel, the court shall appoint counsel
40 unless the court finds that the child would not benefit from the

1 appointment of counsel. The court shall state on the record its
2 reasons for that finding.

3 (2) If a parent appears without counsel and is unable to afford
4 counsel, the court shall appoint counsel for the parent, unless this
5 representation is knowingly and intelligently waived. The same
6 counsel shall not be appointed to represent both the child and his
7 or her parent. The public defender or private counsel may be
8 appointed as counsel for the parent.

9 (3) Private counsel appointed under this section shall receive a
10 reasonable sum for compensation and expenses, the amount of
11 which shall be determined by the court. The amount shall be paid
12 by the real parties in interest, other than the child, in any
13 proportions the court deems just. However, if the court finds that
14 any of the real parties in interest are unable to afford counsel, the
15 amount shall be paid out of the general fund of the county.

16 (g) The court may continue the proceeding for a period of time
17 not to exceed 30 days as necessary to appoint counsel, and to
18 enable counsel to become acquainted with the case.

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

22 (2) In accordance with Section 349, the child shall be present
23 in court if the child or the child's counsel so requests or the court
24 so orders. If the child is 10 years of age or older and is not present
25 at a hearing held pursuant to this section, the court shall determine
26 whether the minor was properly notified of his or her right to attend
27 the hearing and inquire as to the reason why the child is not present.

28 (3) (A) The testimony of the child may be taken in chambers
29 and outside the presence of the child's parent or parents, if the
30 child's parent or parents are represented by counsel, the counsel
31 is present, and any of the following circumstances exists:

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

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

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

38 (B) After testimony in chambers, the parent or parents of the
39 child may elect to have the court reporter read back the testimony

1 or have the testimony summarized by counsel for the parent or
2 parents.

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

6 (i) (1) Any order of the court permanently terminating parental
7 rights under this section shall be conclusive and binding upon the
8 child, upon the parent or parents and upon all other persons who
9 have been served with citation by publication or otherwise as
10 provided in this chapter. After making the order, the juvenile court
11 shall have no power to set aside, change, or modify it, except as
12 provided in paragraph (2), but nothing in this section shall be
13 construed to limit the right to appeal the order.

14 (2) A tribal customary adoption order evidencing that the Indian
15 child has been the subject of a tribal customary adoption shall be
16 afforded full faith and credit and shall have the same force and
17 effect as an order of adoption authorized by this section. The rights
18 and obligations of the parties as to the matters determined by the
19 Indian child's tribe shall be binding on all parties. A court shall
20 not order compliance with the order absent a finding that the party
21 seeking the enforcement participated, or attempted to participate,
22 in good faith, in family mediation services of the court or dispute
23 resolution through the tribe regarding the conflict, prior to the
24 filing of the enforcement action.

25 (3) A child who has not been adopted after the passage of at
26 least three years from the date the court terminated parental rights
27 and for whom the court has determined that adoption is no longer
28 the permanent plan may petition the juvenile court to reinstate
29 parental rights pursuant to the procedure prescribed by Section
30 388. The child may file the petition prior to the expiration of this
31 three-year period if the State Department of Social Services, county
32 adoption agency, or licensed adoption agency that is responsible
33 for custody and supervision of the child as described in subdivision
34 (j) and the child stipulate that the child is no longer likely to be
35 adopted. A child over 12 years of age shall sign the petition in the
36 absence of a showing of good cause as to why the child could not
37 do so. If it appears that the best interests of the child may be
38 promoted by reinstatement of parental rights, the court shall order
39 that a hearing be held and shall give prior notice, or cause prior
40 notice to be given, to the social worker or probation officer and to

1 the child's attorney of record, or, if there is no attorney of record
2 for the child, to the child, and the child's tribe, if applicable, by
3 means prescribed by subdivision (c) of Section 297. The court
4 shall order the child or the social worker or probation officer to
5 give prior notice of the hearing to the child's former parent or
6 parents whose parental rights were terminated in the manner
7 prescribed by subdivision (f) of Section 294 where the
8 recommendation is adoption. The juvenile court shall grant the
9 petition if it finds by clear and convincing evidence that the child
10 is no longer likely to be adopted and that reinstatement of parental
11 rights is in the child's best interest. If the court reinstates parental
12 rights over a child who is under 12 years of age and for whom the
13 new permanent plan will not be reunification with a parent or legal
14 guardian, the court shall specify the factual basis for its findings
15 that it is in the best interest of the child to reinstate parental rights.
16 This subdivision is intended to be retroactive and applies to any
17 child who is under the jurisdiction of the juvenile court at the time
18 of the hearing regardless of the date parental rights were terminated.

19 (j) If the court, by order or judgment, declares the child free
20 from the custody and control of both parents, or one parent if the
21 other does not have custody and control, or declares the child
22 eligible for tribal customary adoption, the court shall at the same
23 time order the child referred to the State Department of Social
24 Services, county adoption agency, or licensed adoption agency for
25 adoptive placement by the agency. However, except in the case
26 of a tribal customary adoption where there is no termination of
27 parental rights, a petition for adoption may not be granted until
28 the appellate rights of the natural parents have been exhausted.
29 The State Department of Social Services, county adoption agency,
30 or licensed adoption agency shall be responsible for the custody
31 and supervision of the child and shall be entitled to the exclusive
32 care and control of the child at all times until a petition for adoption
33 or tribal customary adoption is granted, except as specified in
34 subdivision (n). With the consent of the agency, the court may
35 appoint a guardian of the child, who shall serve until the child is
36 adopted.

37 (k) Notwithstanding any other provision of law, the application
38 of any person who, as a relative caretaker or foster parent, has
39 cared for a dependent child for whom the court has approved a
40 permanent plan for adoption, or who has been freed for adoption,

1 shall be given preference with respect to that child over all other
2 applications for adoptive placement if the agency making the
3 placement determines that the child has substantial emotional ties
4 to the relative caretaker or foster parent and removal from the
5 relative caretaker or foster parent would be seriously detrimental
6 to the child's emotional well-being.

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

11 (D) (1) An order by the court that a hearing pursuant to this
12 section be held is not appealable at any time unless all of the
13 following apply:

14 (A) A petition for extraordinary writ review was filed in a timely
15 manner.

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

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

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

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

27 (A) A trial court, after issuance of an order directing a hearing
28 pursuant to this section be held, shall advise all parties of the
29 requirement of filing a petition for extraordinary writ review as
30 set forth in this subdivision in order to preserve any right to appeal
31 in these issues. This notice shall be made orally to a party if the
32 party is present at the time of the making of the order or by
33 first-class mail by the clerk of the court to the last known address
34 of a party not present at the time of the making of the order.

35 (B) The prompt transmittal of the records from the trial court
36 to the appellate court.

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

- 1 (D) That the parent or guardian, or their trial counsel or other
2 counsel, is charged with the responsibility of filing a petition for
3 extraordinary writ relief pursuant to this subdivision.
- 4 (4) The intent of this subdivision is to do both of the following:
 - 5 (A) Make every reasonable attempt to achieve a substantive and
6 meritorious review by the appellate court within the time specified
7 in Sections 366.21, 366.22, and 366.25 for holding a hearing
8 pursuant to this section.
 - 9 (B) Encourage the appellate court to determine all writ petitions
10 filed pursuant to this subdivision on their merits.
- 11 (5) This subdivision shall only apply to cases in which an order
12 to set a hearing pursuant to this section is issued on or after January
13 1, 1995.
- 14 (m) Except for subdivision (j), this section shall also apply to
15 minors adjudged wards pursuant to Section 727.31.
- 16 (n) (1) Notwithstanding Section 8704 of the Family Code or
17 any other provision of law, the court, at a hearing held pursuant
18 to this section or anytime thereafter, may designate a current
19 caretaker as a prospective adoptive parent if the child has lived
20 with the caretaker for at least six months, the caretaker currently
21 expresses a commitment to adopt the child, and the caretaker has
22 taken at least one step to facilitate the adoption process. In
23 determining whether to make that designation, the court may take
24 into consideration whether the caretaker is listed in the preliminary
25 assessment prepared by the county department in accordance with
26 subdivision (i) of Section 366.21 as an appropriate person to be
27 considered as an adoptive parent for the child and the
28 recommendation of the State Department of Social Services, county
29 adoption agency, or licensed adoption agency.
- 30 (2) For purposes of this subdivision, steps to facilitate the
31 adoption process include, but are not limited to, the following:
 - 32 (A) Applying for an adoption home study.
 - 33 (B) Cooperating with an adoption home study.
 - 34 (C) Being designated by the court or the adoption agency as the
35 adoptive family.
 - 36 (D) Requesting de facto parent status.
 - 37 (E) Signing an adoptive placement agreement.
 - 38 (F) Engaging in discussions regarding a postadoption contact
39 agreement.

1 (G) Working to overcome any impediments that have been
2 identified by the State Department of Social Services, county
3 adoption agency, or licensed adoption agency.

4 (H) Attending classes required of prospective adoptive parents.

5 (3) Prior to a change in placement and as soon as possible after
6 a decision is made to remove a child from the home of a designated
7 prospective adoptive parent, the agency shall notify the court, the
8 designated prospective adoptive parent or the current caretaker, if
9 that caretaker would have met the threshold criteria to be
10 designated as a prospective adoptive parent pursuant to paragraph
11 (1) on the date of service of this notice, the child's attorney, and
12 the child, if the child is 10 years of age or older, of the proposal
13 in the manner described in Section 16010.6.

14 (A) Within five court days or seven calendar days, whichever
15 is longer, of the date of notification, the child, the child's attorney,
16 or the designated prospective adoptive parent may file a petition
17 with the court objecting to the proposal to remove the child, or the
18 court, upon its own motion, may set a hearing regarding the
19 proposal. The court may, for good cause, extend the filing period.
20 A caretaker who would have met the threshold criteria to be
21 designated as a prospective adoptive parent pursuant to paragraph
22 (1) on the date of service of the notice of proposed removal of the
23 child may file, together with the petition under this subparagraph,
24 a petition for an order designating the caretaker as a prospective
25 adoptive parent for purposes of this subdivision.

26 (B) A hearing ordered pursuant to this paragraph shall be held
27 as soon as possible and not later than five court days after the
28 petition is filed with the court or the court sets a hearing upon its
29 own motion, unless the court for good cause is unable to set the
30 matter for hearing five court days after the petition is filed, in
31 which case the court shall set the matter for hearing as soon as
32 possible. At the hearing, the court shall determine whether the
33 caretaker has met the threshold criteria to be designated as a
34 prospective adoptive parent pursuant to paragraph (1), and whether
35 the proposed removal of the child from the home of the designated
36 prospective adoptive parent is in the child's best interest, and the
37 child may not be removed from the home of the designated
38 prospective adoptive parent unless the court finds that removal is
39 in the child's best interest. If the court determines that the caretaker
40 did not meet the threshold criteria to be designated as a prospective

1 adoptive parent on the date of service of the notice of proposed
2 removal of the child, the petition objecting to the proposed removal
3 filed by the caretaker shall be dismissed. If the caretaker was
4 designated as a prospective adoptive parent prior to this hearing,
5 the court shall inquire into any progress made by the caretaker
6 towards the adoption of the child since the caretaker was designated
7 as a prospective adoptive parent.

8 (C) A determination by the court that the caretaker is a
9 designated prospective adoptive parent pursuant to paragraph (1)
10 or subparagraph (B) does not make the caretaker a party to the
11 dependency proceeding nor does it confer on the caretaker any
12 standing to object to any other action of the department, county
13 adoption agency, or licensed adoption agency, unless the caretaker
14 has been declared a de facto parent by the court prior to the notice
15 of removal served pursuant to paragraph (3).

16 (D) If a petition objecting to the proposal to remove the child
17 is not filed, and the court, upon its own motion, does not set a
18 hearing, the child may be removed from the home of the designated
19 prospective adoptive parent without a hearing.

20 (4) Notwithstanding paragraph (3), if the State Department of
21 Social Services, county adoption agency, or licensed adoption
22 agency determines that the child must be removed from the home
23 of the caretaker who is or may be a designated prospective adoptive
24 parent immediately, due to a risk of physical or emotional harm,
25 the agency may remove the child from that home and is not
26 required to provide notice prior to the removal. However, as soon
27 as possible and not longer than two court days after the removal,
28 the agency shall notify the court, the caretaker who is or may be
29 a designated prospective adoptive parent, the child's attorney, and
30 the child, if the child is 10 years of age or older, of the removal.
31 Within five court days or seven calendar days, whichever is longer,
32 of the date of notification of the removal, the child, the child's
33 attorney, or the caretaker who is or may be a designated prospective
34 adoptive parent may petition for, or the court on its own motion
35 may set, a noticed hearing pursuant to paragraph (3). The court
36 may, for good cause, extend the filing period.

37 (5) Except as provided in subdivision (b) of Section 366.28, an
38 order by the court issued after a hearing pursuant to this subdivision
39 shall not be appealable.

1 (6) Nothing in this section shall preclude a county child
2 protective services agency from fully investigating and responding
3 to alleged abuse or neglect of a child pursuant to Section 11165.5
4 of the Penal Code.

5 (7) The Judicial Council shall prepare forms to facilitate the
6 filing of the petitions described in this subdivision, which shall
7 become effective on January 1, 2006.

8 (o) The implementation and operation of the amendments to
9 paragraph (3) of subdivision (c) and subparagraph (A) of paragraph
10 (4) of subdivision (c) enacted at the 2005–06 Regular Session shall
11 be subject to appropriation through the budget process and by
12 phase, as provided in Section 366.35.

13 ~~SEC. 25.~~

14 *SEC. 24.* Section 366.3 of the Welfare and Institutions Code
15 is amended to read:

16 366.3. (a) If a juvenile court orders a permanent plan of
17 adoption, tribal customary adoption, adoption of a nonminor
18 dependent pursuant to subdivision (f) of Section 366.31, or legal
19 guardianship pursuant to Section 360 or 366.26, the court shall
20 retain jurisdiction over the child or nonminor dependent until the
21 child or nonminor dependent is adopted or the legal guardianship
22 is established, except as provided for in Section 366.29 or, on and
23 after January 1, 2012, Section 366.32. The status of the child or
24 nonminor dependent shall be reviewed every six months to ensure
25 that the adoption or legal guardianship is completed as
26 expeditiously as possible. When the adoption of the child or
27 nonminor dependent has been granted, or in the case of a tribal
28 customary adoption, when the tribal customary adoption order has
29 been afforded full faith and credit and the petition for adoption
30 has been granted, the court shall terminate its jurisdiction over the
31 child or nonminor dependent. Following establishment of a legal
32 guardianship, the court may continue jurisdiction over the child
33 as a dependent child of the juvenile court or may terminate its
34 dependency jurisdiction and retain jurisdiction over the child as a
35 ward of the legal guardianship, as authorized by Section 366.4. If,
36 however, a relative of the child is appointed the legal guardian of
37 the child and the child has been placed with the relative for at least
38 six months, the court shall, except if the relative guardian objects,
39 or upon a finding of exceptional circumstances, terminate its
40 dependency jurisdiction and retain jurisdiction over the child as a

1 ward of the guardianship, as authorized by Section 366.4.
2 Following a termination of parental rights, the parent or parents
3 shall not be a party to, or receive notice of, any subsequent
4 proceedings regarding the child.

5 (b) If the court has dismissed dependency jurisdiction following
6 the establishment of a legal guardianship, or no dependency
7 jurisdiction attached because of the granting of a legal guardianship
8 pursuant to Section 360, and the legal guardianship is subsequently
9 revoked or otherwise terminated, the county department of social
10 services or welfare department shall notify the juvenile court of
11 this fact. The court may vacate its previous order dismissing
12 dependency jurisdiction over the child.

13 Notwithstanding Section 1601 of the Probate Code, the
14 proceedings to terminate a legal guardianship that has been granted
15 pursuant to Section 360 or 366.26 shall be held either in the
16 juvenile court that retains jurisdiction over the guardianship as
17 authorized by Section 366.4 or the juvenile court in the county
18 where the guardian and child currently reside, based on the best
19 interests of the child, unless the termination is due to the
20 emancipation or adoption of the child. The juvenile court having
21 jurisdiction over the guardianship shall receive notice from the
22 court in which the petition is filed within five calendar days of the
23 filing. Prior to the hearing on a petition to terminate legal
24 guardianship pursuant to this subdivision, the court shall order the
25 county department of social services or welfare department having
26 jurisdiction or jointly with the county department where the
27 guardian and child currently reside to prepare a report, for the
28 court's consideration, that shall include an evaluation of whether
29 the child could safely remain in, or be returned to, the legal
30 guardian's home, without terminating the legal guardianship, if
31 services were provided to the child or legal guardian. If applicable,
32 the report shall also identify recommended family maintenance or
33 reunification services to maintain the legal guardianship and set
34 forth a plan for providing those services. If the petition to terminate
35 legal guardianship is granted, either juvenile court may resume
36 dependency jurisdiction over the child, and may order the county
37 department of social services or welfare department to develop a
38 new permanent plan, which shall be presented to the court within
39 60 days of the termination. If no dependency jurisdiction has
40 attached, the social worker shall make any investigation he or she

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

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

14 (c) If, following the establishment of a legal guardianship, the
15 county welfare department becomes aware of changed
16 circumstances that indicate adoption or, for an Indian child, tribal
17 customary adoption, may be an appropriate plan for the child, the
18 department shall so notify the court. The court may vacate its
19 previous order dismissing dependency jurisdiction over the child
20 and order that a hearing be held pursuant to Section 366.26 to
21 determine whether adoption or continued legal guardianship is the
22 most appropriate plan for the child. The hearing shall be held no
23 later than 120 days from the date of the order. If the court orders
24 that a hearing shall be held pursuant to Section 366.26, the court
25 shall direct the agency supervising the child and the county
26 adoption agency, or the State Department of Social Services if it
27 is acting as an adoption agency, to prepare an assessment under
28 subdivision (b) of Section 366.22.

29 (d) If the child or, on and after January 1, 2012, nonminor
30 dependent is in a placement other than the home of a legal guardian
31 and jurisdiction has not been dismissed, the status of the child shall
32 be reviewed at least every six months. The review of the status of
33 a child for whom the court has ordered parental rights terminated
34 and who has been ordered placed for adoption shall be conducted
35 by the court. The review of the status of a child or, on and after
36 January 1, 2012, nonminor dependent for whom the court has not
37 ordered parental rights terminated and who has not been ordered
38 placed for adoption may be conducted by the court or an
39 appropriate local agency. The court shall conduct the review under
40 the following circumstances:

1 (1) Upon the request of the child’s parents or legal guardians.

2 (2) Upon the request of the child or, on and after January 1,
3 2012, nonminor dependent.

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

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

10 The court shall determine whether or not reasonable efforts to
11 make and finalize a permanent placement for the child have been
12 made.

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

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

20 (2) Identification of individuals other than the child’s siblings
21 who are important to a child who is 10 years of age or older and
22 has been in out-of-home placement for six months or longer, and
23 actions necessary to maintain the child’s relationship with those
24 individuals, provided that those relationships are in the best interest
25 of the child. The social worker shall ask every child who is 10
26 years of age or older and who has been in out-of-home placement
27 for six months or longer to identify individuals other than the
28 child’s siblings who are important to the child, and may ask any
29 other child to provide that information, as appropriate. The social
30 worker shall make efforts to identify other individuals who are
31 important to the child, consistent with the child’s best interests.

32 (3) The continuing appropriateness and extent of compliance
33 with the permanent plan for the child, including efforts to maintain
34 relationships between a child who is 10 years of age or older and
35 who has been in out-of-home placement for six months or longer
36 and individuals who are important to the child and efforts to
37 identify a prospective adoptive parent or legal guardian, including,
38 but not limited to, child-specific recruitment efforts and listing on
39 an adoption exchange.

1 (4) The extent of the agency’s compliance with the child welfare
2 services case plan in making reasonable efforts either to return the
3 child to the safe home of the parent or to complete whatever steps
4 are necessary to finalize the permanent placement of the child. If
5 the reviewing body determines that a second period of reunification
6 services is in the child’s best interests, and that there is a significant
7 likelihood of the child’s return to a safe home due to changed
8 circumstances of the parent, pursuant to subdivision (f), the specific
9 reunification services required to effect the child’s return to a safe
10 home shall be described.

11 (5) Whether there should be any limitation on the right of the
12 parent or guardian to make educational decisions or developmental
13 services decisions for the child. That limitation shall be specifically
14 addressed in the court order and may not exceed what is necessary
15 to protect the child. If the court specifically limits the right of the
16 parent or guardian to make educational decisions or developmental
17 services decisions for the child, the court shall at the same time
18 appoint a responsible adult to make educational decisions or
19 developmental services decisions for the child pursuant to Section
20 361.

21 (6) The adequacy of services provided to the child. The court
22 shall consider the progress in providing the information and
23 documents to the child, as described in Section 391. The court
24 shall also consider the need for, and progress in providing, the
25 assistance and services described in Section 391.

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

29 (8) The likely date by which the child may be returned to, and
30 safely maintained in, the home, placed for adoption, legal
31 guardianship, in another planned permanent living arrangement,
32 or, for an Indian child, in consultation with the child’s tribe, placed
33 for tribal customary adoption.

34 (9) Whether the child has any siblings under the court’s
35 jurisdiction, and, if any siblings exist, all of the following:

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

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

1 (C) If the siblings are not placed together in the same home,
2 why the siblings are not placed together and what efforts are being
3 made to place the siblings together, or why those efforts are not
4 appropriate.

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

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

9 The factors the court may consider as indicators of the nature of
10 the child's sibling relationships include, but are not limited to,
11 whether the siblings were raised together in the same home,
12 whether the siblings have shared significant common experiences
13 or have existing close and strong bonds, whether either sibling
14 expresses a desire to visit or live with his or her sibling, as
15 applicable, and whether ongoing contact is in the child's best
16 emotional interests.

17 (10) For a child who is 16 years of age or older, and, effective
18 January 1, 2012, for a nonminor dependent, the services needed
19 to assist the child or nonminor dependent to make the transition
20 from foster care to independent living.

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

24 Each licensed foster family agency shall submit reports for each
25 child in its care, custody, and control to the court concerning the
26 continuing appropriateness and extent of compliance with the
27 child's permanent plan, the extent of compliance with the case
28 plan, and the type and adequacy of services provided to the child.

29 (f) Unless their parental rights have been permanently
30 terminated, the parent or parents of the child are entitled to receive
31 notice of, and participate in, those hearings. It shall be presumed
32 that continued care is in the best interests of the child, unless the
33 parent or parents prove, by a preponderance of the evidence, that
34 further efforts at reunification are the best alternative for the child.
35 In those cases, the court may order that further reunification
36 services to return the child to a safe home environment be provided
37 to the parent or parents up to a period of six months, and family
38 maintenance services, as needed for an additional six months in
39 order to return the child to a safe home environment. On and after

1 January 1, 2012, this subdivision shall not apply to the parents of
2 a nonminor dependent.

3 (g) At the review conducted by the court and held at least every
4 six months, regarding a child for whom the court has ordered
5 parental rights terminated and who has been ordered placed for
6 adoption, or, for an Indian child for whom parental rights are not
7 being terminated and a tribal customary adoption is being
8 considered, the county welfare department shall prepare and present
9 to the court a report describing the following:

10 (1) The child's present placement.

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

13 (3) If the child has not been placed with a prospective adoptive
14 parent or guardian, identification of individuals, other than the
15 child's siblings, who are important to the child and actions
16 necessary to maintain the child's relationship with those
17 individuals, provided that those relationships are in the best interest
18 of the child. The agency shall ask every child who is 10 years of
19 age or older to identify any individuals who are important to him
20 or her, consistent with the child's best interest, and may ask any
21 child who is younger than 10 years of age to provide that
22 information as appropriate. The agency shall make efforts to
23 identify other individuals who are important to the child.

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

26 (5) Whether an adoptive placement agreement has been signed
27 and filed.

28 (6) If the child has not been placed with a prospective adoptive
29 parent or parents, the efforts made to identify an appropriate
30 prospective adoptive parent or legal guardian, including, but not
31 limited to, child-specific recruitment efforts and listing on an
32 adoption exchange.

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

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

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

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

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

3 (12) Recommendations for court orders that will assist in the
4 placement of the child for adoption or in the finalization of the
5 adoption.

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

9 The court shall make appropriate orders to protect the stability
10 of the child and to facilitate and expedite the permanent placement
11 and adoption of the child.

12 (h) At the review held pursuant to subdivision (d) for a child in
13 long-term foster care, the court shall consider all permanency
14 planning options for the child including whether the child should
15 be returned to the home of the parent, placed for adoption, or, for
16 an Indian child, in consultation with the child’s tribe, placed for
17 tribal customary adoption, or appointed a legal guardian, or, if
18 compelling reasons exist for finding that none of the foregoing
19 options are in the best interest of the child, whether the child should
20 be placed in another planned permanent living arrangement. The
21 court shall order that a hearing be held pursuant to Section 366.26,
22 unless it determines by clear and convincing evidence that there
23 is a compelling reason for determining that a hearing held pursuant
24 to Section 366.26 is not in the best interest of the child because
25 the child is being returned to the home of the parent, the child is
26 not a proper subject for adoption, or no one is willing to accept
27 legal guardianship. If the county adoption agency, or the
28 department when it is acting as an adoption agency, has determined
29 it is unlikely that the child will be adopted or one of the conditions
30 described in paragraph (1) of subdivision (c) of Section 366.26
31 applies, that fact shall constitute a compelling reason for purposes
32 of this subdivision. Only upon that determination may the court
33 order that the child remain in long-term foster care, without holding
34 a hearing pursuant to Section 366.26. On and after January 1, 2012,
35 the nonminor dependent’s legal status as an adult is in and of itself
36 a compelling reason not to hold a hearing pursuant to Section
37 366.26.

38 (i) If, as authorized by subdivision (h), the court orders a hearing
39 pursuant to Section 366.26, the court shall direct the agency
40 supervising the child and the county adoption agency, or the State

1 Department of Social Services when it is acting as an adoption
2 agency, to prepare an assessment as provided for in subdivision
3 (i) of Section 366.21 or subdivision (b) of Section 366.22. A
4 hearing held pursuant to Section 366.26 shall be held no later than
5 120 days from the date of the 12-month review at which it is
6 ordered, and at that hearing the court shall determine whether
7 adoption, tribal customary adoption, legal guardianship, or
8 long-term foster care is the most appropriate plan for the child. On
9 and after January 1, 2012, a hearing pursuant to Section 366.26
10 shall not be ordered if the child is a nonminor dependent, unless
11 the nonminor dependent is an Indian child and tribal customary
12 adoption is recommended as the permanent plan. The court may
13 order that a nonminor dependent who otherwise is eligible pursuant
14 to Section 11403 remain in a planned, permanent living
15 arrangement. At the request of the nonminor dependent who has
16 an established relationship with an adult determined to be the
17 nonminor dependent's permanent connection, the court may order
18 adoption of the nonminor dependent pursuant to subdivision (f)
19 of Section 366.31.

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

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

28 ~~SEC. 26.~~

29 *SEC. 25.* Section 366.31 of the Welfare and Institutions Code
30 is repealed.

31 ~~SEC. 27.~~

32 *SEC. 26.* Section 366.31 is added to the Welfare and Institutions
33 Code, to read:

34 366.31. (a) If a review hearing is the last review hearing to be
35 held before the minor attains 18 years of age, the court shall ensure
36 all of the following:

37 (1) The minor's case plan includes a plan for the minor to satisfy
38 one or more of the participation conditions described in paragraphs
39 (1) to (5), inclusive, of subdivision (b) of Section 11403, so that

1 the minor is eligible to remain in foster care as a nonminor
2 dependent.

3 (2) The minor has been informed of his or her right to seek
4 termination of dependency jurisdiction pursuant to Section 391,
5 and understands the potential benefits of continued dependency.

6 (3) The minor is informed of his or her right to have dependency
7 reinstated pursuant to subdivision (e) of Section 388, and
8 understands the potential benefits of continued dependency.

9 (b) At the review hearing that occurs in the six-month period
10 prior to the minor's attaining 18 years of age, and at every
11 subsequent review hearing for the nonminor dependent, as
12 described in subdivision (v) of Section 11400, the report shall
13 describe all of the following:

14 (1) The minor's and nonminor's plans to remain in foster care
15 and plans to meet one or more of the participation conditions as
16 described in ~~subparagraphs (A) to (E), inclusive, of paragraph (3)~~
17 *paragraphs (1) to (5), inclusive, of subdivision (b) of Section*
18 *11403 to continue to receive AFDC-FC benefits as a nonminor*
19 *dependent.*

20 (2) The efforts made and assistance provided to the minor and
21 nonminor by the social worker or the probation officer so that the
22 minor and nonminor will be able to meet the participation
23 conditions.

24 (3) Efforts toward completing the items described in paragraph
25 (2) of subdivision (e) of Section 391.

26 (c) The reviews conducted pursuant to this section for any
27 nonminor dependent shall be conducted in a manner that respects
28 the nonminor's status as a legal adult, focused on the goals and
29 services described in the youth's transitional independent living
30 case plan, as described in subdivision (y) of Section 11400,
31 including efforts made to maintain connections with caring and
32 permanently committed adults, and attended, as appropriate, by
33 additional participants invited by the nonminor dependent.

34 (d) For a nonminor dependent whose case plan is continued
35 court-ordered family reunification services pursuant to Section
36 361.6, the court shall consider whether the nonminor dependent
37 may safely reside in the home of the parent or guardian. If the
38 nonminor cannot reside safely in the home of the parent or
39 guardian, or, if it is not in the nonminor dependent's best interest
40 to reside in the home of the parent or guardian, the court must

1 consider whether to continue or terminate reunification services
2 for the parent or legal guardian.

3 (1) The review report shall include a discussion of all of the
4 following:

5 (A) Whether foster care placement continues to be necessary
6 and appropriate.

7 (B) The likely date by which the nonminor dependent may reside
8 safely in the home of the parent or guardian or will achieve
9 independence.

10 (C) Whether the parent or guardian and nonminor dependent
11 were actively involved in the development of the case plan.

12 (D) Whether the social worker or probation officer has provided
13 reasonable services designed to aid the parent or guardian to
14 overcome the problems that led to the initial removal of the
15 nonminor dependent.

16 (E) The extent of progress the parents or guardian have made
17 toward alleviating or mitigating the cases necessitating placement
18 in foster care.

19 (F) Whether the nonminor dependent and parent, parents, or
20 guardian are in agreement with the continuation of reunification
21 services.

22 (G) Whether continued reunification services are in the best
23 interest of the nonminor dependent.

24 (H) ~~A determination of whether~~ *Whether* there is a substantial
25 probability that the nonminor dependent will be able to safely
26 reside in the home of the parent or guardian by the next review
27 hearing date.

28 (I) The efforts to maintain the nonminor's connections with
29 caring and permanently committed adults.

30 (J) The agency's compliance with the nonminor dependent's
31 Transitional Independent Living Case Plan, including efforts to
32 finalize the nonminor's permanent plan and prepare the nonminor
33 dependent for independence.

34 (K) The progress in providing the information and documents
35 to the nonminor dependent as described in Section 391.

36 (2) The court shall inquire about the progress being made to
37 provide a permanent home for the nonminor, shall consider the
38 safety of the nonminor dependent, and shall determine all of the
39 following:

1 (A) The continuing necessity for, and appropriateness of, the
2 placement.

3 (B) Whether the agency has made reasonable efforts to maintain
4 relationships between the nonminor dependent and individuals
5 who are important to the nonminor dependent.

6 (C) The extent of the agency's compliance with the case plan
7 in making reasonable efforts, or, in the case of an Indian child,
8 active efforts as described in Section 361.7, to create a safe home
9 of the parent or guardian for the nonminor to reside in or to
10 complete whatever steps are necessary to finalize the permanent
11 placement of the nonminor dependent.

12 (D) The extent of the agency's compliance with the nonminor
13 dependent's Transitional Independent Living Case Plan, including
14 efforts to finalize the youth's permanent plan and prepare the
15 nonminor dependent for independence.

16 (E) The adequacy of services provided to the parent or guardian
17 and to the nonminor dependent. The court shall consider the
18 progress in providing the information and documents to the
19 nonminor dependent as described in Section 391. The court shall
20 also consider the need for, and progress in providing, the assistance
21 and services described in Section 391.

22 (F) The extent of progress the parents or legal guardians have
23 made toward alleviating or mitigating the causes necessitating
24 placement in foster care.

25 (G) The likely date by which the nonminor dependent may
26 safely reside in the home of the parent or guardian or, if the court
27 is terminating reunification services, the likely date by which it is
28 anticipated the nonminor dependent will achieve independence,
29 or, for an Indian child, in consultation with the child's tribe, placed
30 for tribal customary adoption.

31 (H) Whether the agency has made reasonable efforts as required
32 in subparagraph (D) of paragraph (1) of subdivision (a) of Section
33 366 to establish or maintain the nonminor dependent's relationship
34 with his or her siblings who are under the juvenile court's
35 jurisdiction.

36 (I) The services needed to assist the nonminor dependent to
37 make the transition from foster care to independent living.

38 (J) Whether or not reasonable efforts to make and finalize a
39 permanent placement for the nonminor have been made.

1 (e) For a nonminor dependent who is no longer receiving
2 court-ordered family reunification services and is in a permanent
3 plan of planned permanent living arrangement, at the review
4 hearing held every six months pursuant to subdivision (d) of
5 Section 366.3, the reviewing body shall inquire about the progress
6 being made to provide permanent connections with caring,
7 committed adults for the nonminor dependent, shall consider the
8 safety of the nonminor, shall consider the Transitional Independent
9 Living Case Plan, and shall determine all of the following:

10 (1) The continuing necessity for, and appropriateness of, the
11 placement.

12 (2) The continuing appropriateness and extent of compliance
13 with the permanent plan for the nonminor dependent, including
14 efforts to identify and maintain relationships with individuals who
15 are important to the nonminor dependent.

16 (3) The extent of the agency's compliance with the nonminor
17 dependent's Transitional Independent Living Case Plan, including
18 whether or not reasonable efforts have been made to make and
19 finalize the youth's permanent plan and prepare the nonminor
20 dependent for independence.

21 (4) Whether a prospective adoptive parent has been identified
22 and assessed as appropriate for the nonminor dependent's adoption
23 under this section, whether the prospective adoptive parent has
24 been informed about the terms of the written negotiated adoption
25 assistance agreement pursuant to Section 16120, and whether
26 adoption should be ordered as the nonminor dependent's permanent
27 plan. *If nonminor dependent adoption is ordered as the nonminor
28 dependent's permanent plan, a hearing pursuant to subdivision
29 (f) shall be held within 60 days. When the court orders a hearing
30 pursuant to subdivision (f), it shall direct the agency to prepare a
31 report that shall include the provisions of paragraph (5) of
32 subdivision (f).*

33 (5) For the nonminor dependent who is an Indian child, whether,
34 in consultation with the nonminor's tribe, the nonminor should be
35 placed for tribal customary adoption.

36 (6) The adequacy of services provided to the nonminor
37 dependent. The court shall consider the progress in providing the
38 information and documents to the nonminor dependent as described
39 in Section 391. The court shall also consider the need for, and

1 progress in providing, the assistance and services described in
2 Section 391.

3 (7) The likely date by which it is anticipated the nonminor
4 dependent will achieve adoption or independence.

5 (8) Whether the agency has made reasonable efforts as required
6 in subparagraph (D) of paragraph (1) of subdivision (a) of Section
7 366 to establish or maintain the nonminor dependent’s relationship
8 with his or her siblings who are under the juvenile court’s
9 jurisdiction.

10 (9) The services needed to assist the nonminor dependent to
11 make the transition from foster care to independent living.

12 ~~(f) If nonminor dependent adoption is ordered as nonminor~~
13 ~~dependent’s permanent plan, a hearing shall be held pursuant to~~
14 ~~subdivision (g) within 60 days. When the court orders a hearing~~
15 ~~pursuant to subdivision (g), it shall direct the agency to prepare a~~
16 ~~report pursuant to paragraph (5) of subdivision (g).~~

17 ~~(g)~~

18 (f) (1) At a hearing to consider a permanent plan of adoption
19 for a nonminor dependent, the court shall read and consider the
20 report in paragraph (5) and receive other evidence that the parties
21 may present. A copy of the executed negotiated agreement shall
22 be attached to the report. If the court finds pursuant to this section
23 that nonminor dependent adoption is the appropriate permanent
24 plan, it shall make findings and orders to do the following:

25 (A) Approve the adoption agreement and declare the nonminor
26 dependent is the adopted child of the adoptive parent, and that the
27 nonminor dependent and adoptive parents agree to assume toward
28 each other the legal relationship of parents and child and to have
29 all of the rights and be subject to all of the duties and
30 responsibilities of that relationship.

31 (B) Declare that the birth parents of the nonminor dependent
32 are, from the time of the adoption, relieved of all parental duties
33 toward, and responsibility for, the adopted nonminor dependent
34 and have no rights over the adopted nonminor dependent.

35 (2) If the court finds that the nonminor dependent and the
36 prospective adoptive parent have mutually consented to the
37 adoption, the court may enter the adoption order after it determines
38 all of the following:

39 (A) Whether the notice was given as required by law.

1 (B) Whether the nonminor dependent and prospective adoptive
2 parent are present for the hearing.

3 (C) Whether the court has read and considered the assessment
4 prepared by the social worker or probation officer.

5 (D) Whether the court considered the wishes of the nonminor
6 dependent.

7 (E) If the nonminor dependent is eligible, the prospective
8 adoptive parent has signed the negotiated adoption assistance
9 agreement pursuant to subdivision (g) of Section 16120, *and*
10 *whether a copy of the executed negotiated agreement is attached*
11 *to the report.*

12 (F) Whether the adoption is in the best interest of the nonminor
13 dependent.

14 (3) If the court orders the establishment of the nonminor
15 dependent adoption, it shall dismiss dependency or transitional
16 jurisdiction.

17 (4) If the court does not order the establishment of the nonminor
18 dependent adoption, the nonminor dependent shall remain in a
19 planned permanent living arrangement subject to periodic review
20 of the juvenile court pursuant to this section.

21 (5) At least 10 calendar days before the hearing, the social
22 worker or probation officer shall file a report with the court and
23 provide a copy of the report to all parties. The report shall describe
24 the following:

25 (A) Whether or not the nonminor dependent has any
26 developmental disability and whether the proposed adoptive parent
27 is suitable to meet the needs of the nonminor dependent.

28 (B) The length and nature of the relationship between the
29 prospective adoptive parent and the nonminor dependent, including
30 whether the prospective adoptive parent has been determined to
31 have been established as the nonminor's permanent connection.

32 (C) Whether the nonminor dependent has been determined to
33 be eligible for the adoption assistance program, and if so, whether
34 the prospective adoptive parent has signed the negotiated adoption
35 assistance agreement pursuant to subdivision (g) of Section 16120.

36 (D) Whether a copy of the executed negotiated agreement is
37 attached to the report.

38 (E) Whether criminal background clearances were completed
39 for the prospective adoptive parent as required by Section
40 671(a)(2)(A) and (c) of Title 42 of the United States Code.

1 (F) Whether the prospective adoptive parent who is married and
 2 not legally separated from that spouse has the consent of the
 3 spouse, provided that the spouse is capable of giving that consent.

4 (G) Whether the adoption of the nonminor dependent is in the
 5 best interests of the nonminor dependent and the prospective
 6 adoptive parent.

7 (H) Whether the nonminor dependent and the prospective
 8 adoptive parent have mutually consented to the adoption.

9 (6) The social worker or probation officer shall serve written
 10 notice of the hearing in the manner and to the persons set forth in
 11 Section 295, including the prospective adoptive parent or parents,
 12 except that notice to the nonminor’s birth parents is not required.

13 (7) Nothing in this section shall prevent a nonminor dependent
 14 from filing an adoption petition pursuant to Section 9300 of the
 15 Family Code.

16 ~~(h)~~

17 (g) Each licensed foster family agency shall submit reports for
 18 each nonminor dependent in its care to the court concerning the
 19 continuing appropriateness and extent of compliance with the
 20 nonminor dependent’s permanent plan, the extent of compliance
 21 with the Transitional Independent Living Case Plan, and the type
 22 and adequacy of services provided to the nonminor dependent.
 23 The report shall document that the nonminor has received all the
 24 information and documentation described in paragraph (2) of
 25 subdivision (e) of Section 391. If the court is considering
 26 terminating dependency jurisdiction for a nonminor dependent it
 27 shall first hold a hearing pursuant to Section 391.

28 ~~SEC. 28.~~

29 *SEC. 27.* Section 366.32 is added to the Welfare and Institutions
 30 Code, to read:

31 366.32. (a) With respect to a nonminor dependent, as defined
 32 in subdivision (v) of Section 11400, who has a permanent plan of
 33 long-term foster care that was ordered pursuant to Section 366.21,
 34 366.22, 366.25, or 366.26, the court may continue jurisdiction of
 35 the nonminor as a nonminor dependent of the juvenile court or
 36 may dismiss dependency jurisdiction pursuant to Section 391.

37 (b) If the court continues dependency jurisdiction of the
 38 nonminor as a nonminor dependent of the juvenile court, the court
 39 shall order the development of a planned permanent living
 40 arrangement under a mutual agreement, as described in subdivision

1 (u) of Section 11400, which may include continued placement
2 with the current caregiver or another licensed or approved caregiver
3 or in a supervised independent living placement, as defined in
4 subdivision (w) of Section 11400, consistent with the youth's
5 Transitional Independent Living Case Plan. At the request of the
6 nonminor dependent who has an established relationship with an
7 adult determined to be the nonminor dependent's permanent
8 connection, the court may order nonminor dependent adoption
9 pursuant to subdivision ~~(g)~~ (f) of Section 366.31 as the nonminor
10 dependent's permanent plan.

11 (c) If the court terminates its dependency jurisdiction over a
12 nonminor dependent pursuant to subdivision (a), it shall retain
13 general jurisdiction over the youth pursuant to Section 303. If the
14 court has dismissed dependency jurisdiction pursuant to subdivision
15 (d) of Section 391, the nonminor, who has not attained 21 years
16 of age, may subsequently file a petition pursuant to subdivision
17 (e) of Section 388 to have dependency jurisdiction resumed and
18 the court may vacate its previous order dismissing dependency
19 jurisdiction over the nonminor dependent.

20 ~~SEC. 29:~~

21 *SEC. 28.* Section 369.5 of the Welfare and Institutions Code
22 is amended to read:

23 369.5. (a) If a child is adjudged a dependent child of the court
24 under Section 300 and the child has been removed from the
25 physical custody of the parent under Section 361, only a juvenile
26 court judicial officer shall have authority to make orders regarding
27 the administration of psychotropic medications for that child. The
28 juvenile court may issue a specific order delegating this authority
29 to a parent upon making findings on the record that the parent
30 poses no danger to the child and has the capacity to authorize
31 psychotropic medications. Court authorization for the
32 administration of psychotropic medication shall be based on a
33 request from a physician, indicating the reasons for the request, a
34 description of the child's diagnosis and behavior, the expected
35 results of the medication, and a description of any side effects of
36 the medication. On or before July 1, 2000, the Judicial Council
37 shall adopt rules of court and develop appropriate forms for
38 implementation of this section.

39 (b) (1) In counties in which the county child welfare agency
40 completes the request for authorization for the administration of

1 psychotropic medication, the agency is encouraged to complete
 2 the request within three business days of receipt from the physician
 3 of the information necessary to fully complete the request.

4 (2) Nothing in this subdivision is intended to change current
 5 local practice or local court rules with respect to the preparation
 6 and submission of requests for authorization for the administration
 7 of psychotropic medication.

8 (c) Within seven court days from receipt by the court of a
 9 completed request, the juvenile court judicial officer shall either
 10 approve or deny in writing a request for authorization for the
 11 administration of psychotropic medication to the child, or shall,
 12 upon a request by the parent, the legal guardian, or the child's
 13 attorney, or upon its own motion, set the matter for hearing.

14 (d) Psychotropic medication or psychotropic drugs are those
 15 medications administered for the purpose of affecting the central
 16 nervous system to treat psychiatric disorders or illnesses. These
 17 medications include, but are not limited to, anxiolytic agents,
 18 antidepressants, mood stabilizers, antipsychotic medications,
 19 anti-Parkinson agents, hypnotics, medications for dementia, and
 20 psychostimulants.

21 (e) Nothing in this section is intended to supersede local court
 22 rules regarding a minor's right to participate in mental health
 23 decisions.

24 (f) This section shall not apply to nonminor dependents, as
 25 defined in subdivision (v) of Section 11400.

26 ~~SEC. 30.~~

27 *SEC. 29.* Section 375 of the Welfare and Institutions Code is
 28 amended to read:

29 375. (a) Whenever a petition is filed in the juvenile court of
 30 a county other than the residence of the person named in the
 31 petition, or whenever, subsequent to the filing of a petition in the
 32 juvenile court of the county where that minor resides, the residence
 33 of the person who would be legally entitled to the custody of the
 34 minor were it not for the existence of a court order issued pursuant
 35 to this chapter is changed to another county, the entire case may
 36 be transferred to the juvenile court of the county where that person
 37 then resides at any time after the court has made a finding of the
 38 facts upon which it has exercised its jurisdiction over the minor,
 39 and the juvenile court of the county where that person then resides
 40 shall take jurisdiction of the case upon the receipt and filing of the

1 finding of the facts upon which the court exercised its jurisdiction
2 and an order transferring the case.

3 (b) (1) Whenever a minor under the dependency jurisdiction
4 or transition jurisdiction of the juvenile court attains 18 years of
5 age and remains under the court's jurisdiction as a nonminor
6 dependent, as defined in subdivision (v) of Section 11400, the
7 residence of the nonminor dependent may be changed to another
8 county if the court finds that the nonminor dependent meets the
9 conditions of subdivision (f) of Section 17.1. The entire case may
10 be transferred to the juvenile court of the county where the
11 nonminor dependent then resides at any time after the court has
12 made a finding of the facts upon which the court has exercised its
13 jurisdiction over the nonminor. The juvenile court of the county
14 where a nonminor then resides shall take jurisdiction of the case
15 upon the receipt and filing of that finding and an order transferring
16 the case.

17 (2) Whenever a petition pursuant to subdivision (e) of Section
18 388 is submitted in the juvenile court of a county other than the
19 county that retained general jurisdiction under subdivision (b) of
20 Section 303 of the nonminor dependent, as defined in subdivision
21 (v) of Section 11400, the residence of the nonminor dependent
22 may be changed to another county if the nonminor dependent meets
23 the conditions of subdivision (g) of Section 17.1. The entire case
24 may be transferred to the juvenile court of the county where the
25 nonminor dependent then resides at any time after the county that
26 retained general jurisdiction has granted the petition and resumed
27 dependency jurisdiction, or has assumed or resumed transition
28 jurisdiction. The juvenile court of the county where the nonminor
29 then resides shall take jurisdiction of the case upon the receipt and
30 filing of the finding of the facts upon which the court exercised
31 its jurisdiction over the nonminor and an order transferring the
32 case.

33 ~~SEC. 31. Section 388 of the Welfare and Institutions Code is~~
34 ~~amended to read:~~

35 ~~388. (a) Any parent or other person having an interest in a~~
36 ~~child who is a dependent child of the juvenile court or a nonminor~~
37 ~~dependent as defined in subdivision (v) of Section 11400, or the~~
38 ~~child himself or herself or the nonminor dependent through a~~
39 ~~properly appointed guardian may, upon grounds of change of~~
40 ~~circumstance or new evidence, petition the court in the same action~~

1 in which the child was found to be a dependent child of the juvenile
2 court or in which a guardianship was ordered pursuant to Section
3 360 for a hearing to change, modify, or set aside any order of court
4 previously made or to terminate the jurisdiction of the court. The
5 petition shall be verified and, if made by a person other than the
6 child or the nonminor dependent, shall state the petitioner's
7 relationship to or interest in the child and shall set forth in concise
8 language any change of circumstance or new evidence that is
9 alleged to require the change of order or termination of jurisdiction.

10 (b) Any person, including a child or the nonminor dependent
11 who is a dependent of the juvenile court, may petition the court to
12 assert a relationship as a sibling related by blood, adoption, or
13 affinity through a common legal or biological parent to a child
14 who is, or is the subject of a petition for adjudication as, a
15 dependent of the juvenile court, and may request visitation with
16 the dependent child, placement with or near the dependent child,
17 or consideration when determining or implementing a case plan
18 or permanent plan for the dependent child or make any other
19 request for an order which may be shown to be in the best interest
20 of the dependent child. The court may appoint a guardian ad litem
21 to file the petition for the dependent child asserting the sibling
22 relationship if the court determines that the appointment is
23 necessary for the best interests of the dependent child. The petition
24 shall be verified and shall set forth the following:

25 (1) Through which parent he or she is related to the dependent
26 child.

27 (2) Whether he or she is related to the dependent child by blood,
28 adoption, or affinity.

29 (3) The request or order that the petitioner is seeking.

30 (4) Why that request or order is in the best interest of the
31 dependent child.

32 (e) (1) Any party, including a child who is a dependent of the
33 juvenile court, may petition the court, prior to the hearing set
34 pursuant to subdivision (f) of Section 366.21 for a child described
35 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
36 361.5, or prior to the hearing set pursuant to subdivision (e) of
37 Section 366.21 for a child described by subparagraph (B) or (C)
38 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
39 court-ordered reunification services provided under subdivision
40 (a) of Section 361.5 only if one of the following conditions exists:

1 (A) It appears that a change of circumstance or new evidence
2 exists that satisfies a condition set forth in subdivision (b) or (c)
3 of Section 361.5 justifying termination of court-ordered
4 reunification services.

5 (B) The action or inaction of the parent or guardian creates a
6 substantial likelihood that reunification will not occur, including,
7 but not limited to, the parent's or guardian's failure to visit the
8 child, or the failure of the parent or guardian to participate regularly
9 and make substantive progress in a court-ordered treatment plan.

10 (2) In determining whether the parent or guardian has failed to
11 visit the child or participate regularly or make progress in the
12 treatment plan, the court shall consider factors that include, but
13 are not limited to, the parent's or guardian's incarceration,
14 institutionalization, or participation in a court-ordered residential
15 substance abuse treatment program.

16 (3) The court shall terminate reunification services during the
17 above-described time periods only upon a finding by a
18 preponderance of evidence that reasonable services have been
19 offered or provided, and upon a finding of clear and convincing
20 evidence that one of the conditions in subparagraph (A) or (B) of
21 paragraph (1) exists.

22 (4) Any party, including a nonminor dependent, as defined in
23 subdivision (v) of Section 11400, may petition the court prior to
24 the review hearing set pursuant to subdivision (d) of Section 366.31
25 to terminate the continuation of court-ordered family reunification
26 services for a nonminor dependent who has attained 18 years of
27 age. The court shall terminate family reunification services to the
28 parent or guardian if the nonminor dependent or parent or guardian
29 are not in agreement that the continued provision of court-ordered
30 family reunification services is in the best interests of the nonminor
31 dependent.

32 (5) If the court terminates reunification services, it shall order
33 that a hearing pursuant to Section 366.26 be held within 120 days.
34 On and after January 1, 2012, a hearing pursuant to Section 366.26
35 shall not be ordered if the child is a nonminor dependent. The court
36 may order a nonminor dependent who is otherwise eligible to
37 AFDC-FC benefits pursuant to Section 11403 to remain in a
38 planned, permanent living arrangement.

39 (d) If it appears that the best interests of the child or the
40 nonminor dependent may be promoted by the proposed change of

1 order, recognition of a sibling relationship, termination of
2 jurisdiction, or clear and convincing evidence supports revocation
3 or termination of court-ordered reunification services, the court
4 shall order that a hearing be held and shall give prior notice, or
5 cause prior notice to be given, to the persons and in the manner
6 prescribed by Section 386, and, in those instances in which the
7 manner of giving notice is not prescribed by those sections, then
8 in the manner the court prescribes.

9 (e) (1) On and after January 1, 2012, a nonminor who attained
10 18 years of age while subject to an order for foster care placement
11 and, commencing January 1, 2012, who has not attained 20 years
12 of age, or, commencing January 1, 2014, 21 years of age, for whom
13 the court has dismissed dependency jurisdiction pursuant to Section
14 391, or delinquency jurisdiction pursuant to Section 607.2, or
15 transition jurisdiction pursuant to Section 452, but has retained
16 general jurisdiction under subdivision (b) of Section 303, or the
17 county child welfare services, probation department, or tribal
18 placing agency on behalf of the nonminor, may petition the court
19 in the same action in which the child was found to be a dependent
20 or delinquent child of the juvenile court, for a hearing to resume
21 the dependency jurisdiction over a former dependent or to assume
22 or resume transition jurisdiction over a former delinquent ward
23 pursuant to Section 450. The petition shall be filed within the
24 period that the nonminor is of the age described in this paragraph.
25 If the nonminor has completed the voluntary reentry agreement,
26 as described in subdivision (z) of Section 11400, with the placing
27 agency, the agency shall file the petition on behalf of the nonminor
28 within 15 judicial days of the date the agreement was signed unless
29 the nonminor elects to file the petition at an earlier date.

30 (2) (A) The petition to resume jurisdiction may be filed in the
31 juvenile court that retains general jurisdiction under subdivision
32 (b) of Section 303, or the petition may be submitted to the juvenile
33 court in the county where the youth resides and forwarded to the
34 juvenile court that retained general jurisdiction and filed with that
35 court. The juvenile court having general jurisdiction under Section
36 303 shall receive the petition from the court where the petition
37 was submitted within five court days of its submission, if the
38 petition is filed in the county of residence. The juvenile court that
39 retained general jurisdiction shall order that a hearing be held
40 within 15 judicial days of the date the petition was filed if there is

1 a prima facie showing that the nonminor satisfies the following
2 criteria:

3 (i) He or she was previously under juvenile court jurisdiction,
4 subject to an order for foster care placement when he or she
5 attained 18 years of age, and has not attained the age limits
6 described in paragraph (1).

7 (ii) He or she intends to satisfy at least one of the conditions set
8 forth in subparagraphs (A) to (E), inclusive, of paragraph (3) of
9 subdivision (b) of Section 11403.

10 (iii) He or she wants assistance either in maintaining or securing
11 appropriate supervised placement, or is in need of immediate
12 placement and agrees to supervised placement pursuant to the
13 voluntary reentry agreement as described in subdivision (z) of
14 Section 11400.

15 (B) Upon ordering a hearing, the court shall give prior notice,
16 or cause prior notice to be given, to the persons and by the means
17 prescribed by Section 386, except that notice to parents or former
18 guardians shall not be provided unless the nonminor requests, in
19 writing on the face of the petition, notice to the parents or former
20 guardians.

21 (3) The Judicial Council, by January 1, 2012, shall adopt rules
22 of court to allow for telephonic appearances by nonminor former
23 dependents or delinquents in these proceedings, and for telephonic
24 appearances by nonminor dependents in any proceeding in which
25 the nonminor dependent is a party, and he or she declines to appear
26 and elects a telephonic appearance.

27 (4) Prior to the hearing on a petition to resume dependency
28 jurisdiction or to assume or resume transition jurisdiction, the court
29 shall order the county child welfare or probation department to
30 prepare a report for the court addressing whether the nonminor
31 intends to satisfy at least one of the criteria set forth in subdivision
32 (b) of Section 11403. When the recommendation is for the
33 nonminor dependent to be placed in a setting where minor
34 dependents also reside, the results of a background check of the
35 petitioning nonminor conducted pursuant to Section 16504.5, may
36 be used by the placing agency to determine appropriate placement
37 options for the nonminor. The existence of a criminal conviction
38 is not a bar to eligibility for reentry or resumption of dependency
39 jurisdiction or the assumption or resumption of transition
40 jurisdiction over a nonminor.

1 ~~(5) (A) The court shall resume dependency jurisdiction over a~~
 2 ~~former dependent or assume or resume transition jurisdiction over~~
 3 ~~a former delinquent ward pursuant to Section 450, and order that~~
 4 ~~the nonminor's placement and care be under the responsibility of~~
 5 ~~the county child welfare services department, the probation~~
 6 ~~department, or tribe, if the court finds all of the following:~~

7 ~~(i) The nonminor was previously under juvenile court~~
 8 ~~jurisdiction subject to an order for foster care placement when he~~
 9 ~~or she attained 18 years of age.~~

10 ~~(ii) The nonminor has not attained the age limits described in~~
 11 ~~paragraph (1).~~

12 ~~(iii) Reentry and remaining in foster care are in the nonminor's~~
 13 ~~best interests.~~

14 ~~(iv) The nonminor intends to satisfy, and agrees to satisfy, at~~
 15 ~~least one of the criteria set forth in subparagraphs (A) to (E),~~
 16 ~~inclusive, of paragraph (3) of subdivision (b) of Section 11403,~~
 17 ~~and demonstrates his or her agreement to placement in a supervised~~
 18 ~~setting under the placement and care responsibility of the placing~~
 19 ~~agency and to satisfy the criteria by signing the voluntary reentry~~
 20 ~~agreement as described in subdivision (z) of Section 11400.~~

21 ~~(B) In no event shall the court grant a continuance that would~~
 22 ~~cause the hearing to resume dependency jurisdiction or to assume~~
 23 ~~or resume transition jurisdiction to be completed more than 120~~
 24 ~~days after the date the petition was filed.~~

25 ~~(C) The agency made responsible for the nonminor's placement~~
 26 ~~and care pursuant to subparagraph (A) shall prepare a new~~
 27 ~~transitional independent living case plan within 60 calendar days~~
 28 ~~from the date the nonminor signed the voluntary reentry agreement~~
 29 ~~as described in subdivision (z) of Section 11400 and submit it to~~
 30 ~~the court for the review hearing under Section 366.3, to be held~~
 31 ~~within 70 days of the resumption of dependency jurisdiction or~~
 32 ~~assumption or resumption of transition jurisdiction. In no event~~
 33 ~~shall the review hearing under Section 366.3 be held more than~~
 34 ~~170 calendar days from the date the nonminor signed the voluntary~~
 35 ~~reentry agreement.~~

36 ~~SEC. 30. Section 388 of the Welfare and Institutions Code is~~
 37 ~~amended to read:~~

38 ~~388. (a) (1) Any parent or other person having an interest in~~
 39 ~~a child who is a dependent child of the juvenile court or a nonminor~~
 40 ~~dependent as defined in subdivision (v) of Section 11400, or the~~

1 child himself or herself *or the nonminor dependent* through a
2 properly appointed guardian may, upon grounds of change of
3 circumstance or new evidence, petition the court in the same action
4 in which the child was found to be a dependent child of the juvenile
5 court or in which a guardianship was ordered pursuant to Section
6 360 for a hearing to change, modify, or set aside any order of court
7 previously made or to terminate the jurisdiction of the court. The
8 petition shall be verified and, if made by a person other than the
9 child; *or the nonminor dependent*, shall state the petitioner's
10 relationship to or interest in the child and shall set forth in concise
11 language any change of circumstance or new evidence that is
12 alleged to require the change of order or termination of jurisdiction.

13 (2) When any party, including a child who is a dependent of the
14 juvenile court, petitions the court prior to an order terminating
15 parental rights, to modify the order that reunification services were
16 not needed pursuant to paragraphs (4), (5), and (6) of subdivision
17 (b) of Section 361.5, or to modify any orders related to custody or
18 visitation of the subject child, and the court orders a hearing
19 pursuant to subdivision (d), the court shall modify the order that
20 reunification services were not needed pursuant to paragraphs (4),
21 (5), and (6) of subdivision (b) of Section 361.5, or any orders
22 related to the custody or visitation of the child for whom
23 reunification services were not ordered pursuant to paragraphs (4),
24 (5), and (6) of subdivision (b) of Section 361.5, only if the court
25 finds by clear and convincing evidence that the proposed change
26 is in the best interests of the child.

27 (b) Any person, including a child *or the nonminor dependent*
28 who is a dependent of the juvenile court, may petition the court to
29 assert a relationship as a sibling related by blood, adoption, or
30 affinity through a common legal or biological parent to a child
31 who is, or is the subject of a petition for adjudication as, a
32 dependent of the juvenile court, and may request visitation with
33 the dependent child, placement with or near the dependent child,
34 or consideration when determining or implementing a case plan
35 or permanent plan for the dependent child or make any other
36 request for an order which may be shown to be in the best interest
37 of the dependent child. The court may appoint a guardian ad litem
38 to file the petition for the dependent child asserting the sibling
39 relationship if the court determines that the appointment is

1 necessary for the best interests of the dependent child. The petition
2 shall be verified and shall set forth the following:

3 (1) Through which parent he or she is related to the dependent
4 child.

5 (2) Whether he or she is related to the dependent child by blood,
6 adoption, or affinity.

7 (3) The request or order that the petitioner is seeking.

8 (4) Why that request or order is in the best interest of the
9 dependent child.

10 (c) (1) Any party, including a child who is a dependent of the
11 juvenile court, may petition the court, prior to the hearing set
12 pursuant to subdivision (f) of Section 366.21 for a child described
13 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
14 361.5, or prior to the hearing set pursuant to subdivision (e) of
15 Section 366.21 for a child described by subparagraph (B) or (C)
16 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
17 court-ordered reunification services provided under subdivision
18 (a) of Section 361.5 only if one of the following conditions exists:

19 (A) It appears that a change of circumstance or new evidence
20 exists that satisfies a condition set forth in subdivision (b) or (e)
21 of Section 361.5 justifying termination of court-ordered
22 reunification services.

23 (B) The action or inaction of the parent or guardian creates a
24 substantial likelihood that reunification will not occur, including,
25 but not limited to, the ~~parent~~ *parent's* or guardian's failure to visit
26 the child, or the failure of the parent or guardian to participate
27 regularly and make substantive progress in a court-ordered
28 treatment plan.

29 (2) In determining whether the parent or guardian has failed to
30 visit the child or participate regularly or make progress in the
31 treatment plan, the court shall consider factors ~~including that~~
32 *include*, but *are* not limited to, the ~~parent~~ *parent's* or guardian's
33 incarceration, institutionalization, or participation in a court-ordered
34 residential substance abuse treatment program.

35 (3) The court shall terminate reunification services during the
36 above-described time periods only upon a finding by a
37 preponderance of evidence that reasonable services have been
38 offered or provided, and upon a finding of clear and convincing
39 evidence that one of the conditions in subparagraph (A) or (B) of
40 paragraph (1) exists.

1 (4) Any party, including a nonminor dependent, as defined in
2 subdivision (v) of Section 11400, may petition the court prior to
3 the review hearing set pursuant to subdivision (d) of Section 366.31
4 to terminate the continuation of court-ordered family reunification
5 services for a nonminor dependent who has attained 18 years of
6 age. The court shall terminate family reunification services to the
7 parent or guardian if the nonminor dependent or parent or
8 guardian are not in agreement that the continued provision of
9 court-ordered family reunification services is in the best interests
10 of the nonminor dependent.

11 ~~(4)~~

12 (5) If the court terminates reunification services, it shall order
13 that a hearing pursuant to Section 366.26 be held within 120 days.
14 On and after January 1, 2012, a hearing pursuant to Section 366.26
15 shall not be ordered if the child is a nonminor dependent. The
16 court may order a nonminor dependent who is otherwise eligible
17 to AFDC-FC benefits pursuant to Section 11403 to remain in a
18 planned, permanent living arrangement.

19 (d) If it appears that the best interests of the child or the
20 nonminor dependent may be promoted by the proposed change of
21 order, modification of reunification services, custody, or visitation
22 orders concerning a child for whom reunification services were
23 not ordered pursuant to paragraphs (4), (5), and (6) of subdivision
24 (b) of Section 361.5, recognition of a sibling relationship,
25 termination of jurisdiction, or clear and convincing evidence
26 supports revocation or termination of court-ordered reunification
27 services, the court shall order that a hearing be held and shall give
28 prior notice, or cause prior notice to be given, to the persons and
29 ~~by~~ in the ~~means~~ manner prescribed by Section 386, and, in those
30 instances in which the ~~means~~ manner of giving notice is not
31 prescribed by those sections, then ~~by means~~ in the manner the
32 court prescribes.

33 (e) (1) On and after January 1, 2012, a nonminor who attained
34 18 years of age while subject to an order for foster care placement
35 and, commencing January 1, 2012, who has not attained ~~19 years~~
36 ~~of age, or, commencing January 1, 2013,~~ 20 years of age, or,
37 commencing January 1, 2014, 21 years of age, for whom the court
38 has dismissed dependency jurisdiction pursuant to Section 391, or
39 delinquency jurisdiction pursuant to Section 607.2, or transition
40 jurisdiction pursuant to Section 452, but has retained general

1 jurisdiction under subdivision (b) of Section 303, or the county
2 child welfare services, probation department, or tribal placing
3 agency on behalf of the nonminor, may petition the court in the
4 same action in which the child was found to be a dependent or
5 delinquent child of the juvenile court, for a hearing to resume the
6 dependency jurisdiction over a former dependent or to assume or
7 resume transition jurisdiction over a former delinquent ward
8 pursuant to Section 450. The petition shall be filed within the
9 period that the nonminor is of the age described in this paragraph.
10 If the nonminor has completed the voluntary reentry agreement,
11 as described in subdivision (z) of Section 11400, with the placing
12 agency, the agency shall file the petition on behalf of the nonminor
13 within 15 judicial days of the date the agreement was signed unless
14 the nonminor elects to file the petition at an earlier date.

15 (2) (A) The petition to resume jurisdiction may be filed in the
16 juvenile court that retains general jurisdiction under subdivision
17 (b) of Section 303, or the petition may be submitted to the juvenile
18 court in the county where the youth resides and forwarded to the
19 juvenile court that retained general jurisdiction and filed with that
20 court. The juvenile court having general jurisdiction under Section
21 303 shall receive the petition from the court where the petition
22 was submitted within five court days of its submission, if the
23 petition is filed in the county of residence. The juvenile court that
24 retained general jurisdiction shall order that a hearing be held
25 within 15 judicial days of the date the petition was filed if there is
26 a prima facie showing that the nonminor satisfies the following
27 criteria:

28 (i) He or she was previously under juvenile court jurisdiction,
29 subject to an order for foster care placement when he or she
30 attained 18 years of age, and has not attained the age limits
31 described in paragraph (1).

32 (ii) He or she intends to satisfy at least one of the conditions set
33 forth in ~~paragraphs (1) to (5)~~ *subparagraphs (A) to (E)*, inclusive,
34 of *paragraph (3)* of subdivision (b) of Section 11403.

35 (iii) He or she wants assistance either in maintaining or securing
36 appropriate supervised placement, or is in need of immediate
37 placement and agrees to supervised placement pursuant to the
38 voluntary reentry agreement as described in subdivision (z) of
39 Section 11400.

1 (B) Upon ordering a hearing, the court shall give prior notice,
2 or cause prior notice to be given, to the persons and by the means
3 prescribed by Section 386, except that notice to parents or former
4 guardians shall not be provided unless the nonminor requests, in
5 writing on the face of the petition, notice to the parents or former
6 guardians.

7 (3) The Judicial Council, by January 1, 2012, shall adopt rules
8 of court to allow for telephonic appearances by nonminor former
9 dependents or delinquents in these proceedings, and for telephonic
10 appearances by nonminor dependents in any proceeding in which
11 the nonminor dependent is a party, and he or she declines to appear
12 and elects a telephonic appearance.

13 (4) Prior to the hearing on a petition to resume dependency
14 jurisdiction or to assume or resume transition jurisdiction, the court
15 shall order the county child welfare or probation department ~~or~~
16 ~~Indian tribe that has entered into an agreement pursuant to Section~~
17 ~~10553.1~~ to prepare a report for the court addressing whether the
18 nonminor intends to satisfy at least one of the criteria set forth in
19 subdivision (b) of Section 11403. When the recommendation is
20 for the nonminor dependent to be placed in a setting where minor
21 dependents also reside, the results of a background check of the
22 petitioning nonminor conducted pursuant to Section 16504.5, *may*
23 *be* used by the placing agency to determine appropriate placement
24 options for the nonminor. The existence of a criminal conviction
25 is not a bar to eligibility for reentry or resumption of dependency
26 jurisdiction or the assumption or resumption of transition
27 jurisdiction over a nonminor.

28 (5) (A) The court shall resume dependency jurisdiction over a
29 former dependent or assume or resume transition jurisdiction over
30 a former delinquent ward pursuant to Section 450, and order that
31 the nonminor's placement and care be under the responsibility of
32 the county child welfare services department, the probation
33 department, or tribe, if the court finds all of the following:

34 (i) The nonminor was previously under juvenile court
35 jurisdiction subject to an order for foster care placement when he
36 or she attained 18 years of age.

37 (ii) The nonminor has not attained the age limits described in
38 paragraph (1).

39 (iii) Reentry and remaining in foster care are in the nonminor's
40 best interests.

1 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
 2 least one of the criteria set forth in ~~paragraphs (1) to (5)~~
 3 *subparagraphs (A) to (E)*, inclusive, of *paragraph (3) of*
 4 *subdivision (b) of Section 11403, or and demonstrates his or her*
 5 *agreement to placement in a supervised setting under the placement*
 6 *and care responsibility of the placing agency and to satisfy the*
 7 *criteria by signing the voluntary reentry agreement as described*
 8 *in subdivision (z) of Section 11400.*

9 ~~(B) In no event shall the court grant a continuance that would~~
 10 ~~cause the hearing to resume dependency jurisdiction or to assume~~
 11 ~~or resume transition jurisdiction to be completed more than 120~~
 12 ~~days after the date the petition was filed.~~

13 ~~(B)~~
 14 (C) The agency made responsible for the nonminor’s placement
 15 and care pursuant to subparagraph (A) shall prepare a new
 16 transitional independent living case plan *within 60 calendar days*
 17 *from the date the nonminor signed the voluntary reentry agreement*
 18 *as described in subdivision (z) of Section 11400 and submit it to*
 19 *the court within 60 for the review hearing under Section 366.3, to*
 20 *be held within 70 days of the resumption of dependency jurisdiction*
 21 *or assumption or resumption of transition jurisdiction. In no event*
 22 *shall the review hearing under Section 366.3 be held more than*
 23 *170 calendar days from the date the nonminor signed the voluntary*
 24 *reentry agreement.*

25 ~~(C) In no event shall the court grant a continuance that would~~
 26 ~~cause the hearing to resume dependency jurisdiction or to assume~~
 27 ~~or resume transition jurisdiction to be completed more than 120~~
 28 ~~days after the date the petition was submitted.~~

29 ~~SEC. 32.~~

30 *SEC. 31.* Section 727.25 is added to the Welfare and Institutions
 31 Code, to read:

32 727.25. (a) Notwithstanding any other law, the court may order
 33 family reunification services to continue for a nonminor dependent,
 34 as defined in subdivision (v) of Section 11400, if all parties are in
 35 agreement that the continued provision of court-ordered family
 36 reunification services is in the best interests of the nonminor
 37 dependent, and there is a substantial probability that the nonminor
 38 dependent will be able to safely reside in the home of the parent
 39 or guardian by the next review hearing. The continuation of

1 court-ordered family reunification services shall not exceed the
2 timeframes in Section 727.3.

3 (b) If all parties are not in agreement or the court finds there is
4 not a substantial probability that the nonminor will be able to return
5 and safely reside in the home of the parent or guardian, the court
6 shall terminate reunification services to the parents or guardian.

7 (c) The continuation of court-ordered family reunification
8 services under this section does not affect the nonminor's eligibility
9 for extended foster care benefits as a nonminor dependent as
10 defined in subdivision (v) of Section 11400. The reviews conducted
11 for any nonminor dependent shall be pursuant to Section 366.31.

12 (d) The extension of reunification services only applies to youth
13 under the delinquency jurisdiction of the court.

14 ~~SEC. 33.~~

15 *SEC. 32.* Section 903.4 of the Welfare and Institutions Code
16 is amended to read:

17 903.4. (a) The Legislature finds that even though Section 903
18 establishes parental liability for the cost of the care, support, and
19 maintenance of a child in a county institution or other place in
20 which the child is placed, detained, or committed pursuant to an
21 order of the juvenile court, the collection of child support for
22 juveniles who have been placed in out-of-home care as dependents
23 or wards of the juvenile court under Sections 300, 601, and 602
24 has not been pursued routinely and effectively.

25 It is the purpose of this section to substantially increase income
26 to the state and to counties through court-ordered parental
27 reimbursement for the support of juveniles who are in out-of-home
28 placement. In this regard, the Legislature finds that the costs of
29 collection will be offset by the additional income derived from the
30 increased effectiveness of the parental support program.

31 (b) In any case in which a child is or has been declared a
32 dependent child or a ward of the court pursuant to a Section 300,
33 601, or 602, the juvenile court shall order any agency which has
34 expended moneys or incurred costs on behalf of the child pursuant
35 to a detention or placement order of the juvenile court, to submit
36 to the local child support agency, within 30 days, in the form of a
37 declaration, a statement of its costs and expenses for the benefit,
38 support, and maintenance of the child.

39 (c) (1) The local child support agency may petition the superior
40 court to issue an order to show cause why an order should not be

1 entered for continuing support and reimbursement of the costs of
2 the support of any minor described in Section 903.

3 Any order entered as a result of the order to show cause shall be
4 enforceable in the same manner as any other support order entered
5 by the courts of this state at the time it becomes due and payable.

6 In any case in which the local child support agency has received
7 a declaration of costs or expenses from any agency, the declaration
8 shall be deemed an application for assistance pursuant to Section
9 17400 of the Family Code.

10 (2) The order to show cause shall inform the parent of all of the
11 following facts:

12 (A) He or she has been sued.

13 (B) If he or she wishes to seek the advice of an attorney in this
14 matter, it should be done promptly so that his or her financial
15 declaration and written response, if any, will be filed on time.

16 (C) He or she has a right to appear personally and present
17 evidence in his or her behalf.

18 (D) His or her failure to appear at the order to show cause
19 hearing, personally or through his or her attorney, may result in
20 an order being entered against him or her for the relief requested
21 in the petition.

22 (E) Any order entered could result in the garnishment of wages,
23 taking of money or property to enforce the order, or being held in
24 contempt of court.

25 (F) Any party has a right to request a modification of any order
26 issued by the superior court in the event of a change in
27 circumstances.

28 (3) Any existing support order shall remain in full force and
29 effect unless the superior court modifies that order pursuant to
30 subdivision (f).

31 (4) The local child support agency shall not be required to
32 petition the court for an order for continuing support and
33 reimbursement if, in the opinion of the local child support agency,
34 it would not be appropriate to secure such an order. The local child
35 support agency shall not be required to continue collection efforts
36 for any order if, in the opinion of the local child support agency,
37 it would not be appropriate or cost effective to enforce the order
38 pursuant to Section 17552 of the Family Code.

39 (d) (1) In any case in which an order to show cause has been
40 issued and served upon a parent for continuing support and

1 reimbursement of costs, a completed income and expense
2 declaration shall be filed with the court by the parent; a copy of it
3 shall be delivered to the local child support agency at least five
4 days prior to the hearing on the order to show cause.

5 (2) Any person authorized by law to receive a parent’s financial
6 declaration or information obtained therefrom, who knowingly
7 furnishes the declaration or information to a person not authorized
8 by law to receive it, is guilty of a misdemeanor.

9 (e) If a parent has been personally served with the order to show
10 cause and no appearance is made by the parent, or an attorney in
11 his or her behalf, at the hearing on the order to show cause, the
12 court may enter an order for the principal amount and continuing
13 support in the amount demanded in the petition.

14 If the parent appears at the hearing on the order to show cause,
15 the court may enter an order for the amount the court determines
16 the parent is financially able to pay.

17 (f) The court shall have continuing jurisdiction to modify any
18 order for continuing support entered pursuant to this section.

19 (g) As used in this section, “parent” includes any person
20 specified in Section 903, the estate of any such person, and the
21 estate of the minor person. “Parent” does not include a minor or
22 nonminor dependent whose minor child receives aid under Section
23 11401.4.

24 (h) The local child support agency may contract with another
25 county agency for the performance of any of the duties required
26 by this section.

27 ~~SEC. 34.~~

28 *SEC. 33.* Section 903.5 of the Welfare and Institutions Code
29 is amended to read:

30 903.5. In addition to the requirements of Section 903.4, and
31 notwithstanding any other provision of law, the parent or other
32 person legally liable for the support of a minor, who voluntarily
33 places the minor in 24-hour out-of-home care, shall be liable for
34 the cost of the minor’s care, support, and maintenance when the
35 minor receives Aid to Families with Dependent Children-Foster
36 Care (AFDC-FC), Supplemental Security Income-State
37 Supplementary Program (SSI-SSP), or county-only funds. As used
38 in this section, “parent” includes any person specified in Section
39 903. As used in this section, “parent” does not include a minor or
40 nonminor dependent whose minor child receives aid under Section

1 11401.4. Whenever the county welfare department or the placing
2 agency determines that a court order would be advisable and
3 effective, pursuant to Section 17552 of the Family Code, the
4 department or the agency shall notify the local child support
5 agency, or the financial evaluation officer designated pursuant to
6 Section 903.45, who shall proceed pursuant to Section 903.4 or
7 903.45.

8 ~~SEC. 35.~~

9 *SEC. 34.* Section 11253 of the Welfare and Institutions Code
10 is amended to read:

11 11253. (a) Except as provided in subdivision (b), aid shall not
12 be granted under this chapter to or on behalf of any child who has
13 attained 18 years of age unless all of the following apply:

14 (1) The child is less than 19 years of age and is attending high
15 school or the equivalent level of vocational or technical training
16 on a full-time basis.

17 (2) The child can reasonably be expected to complete the
18 educational or training program before his or her 19th birthday.

19 (b) (1) On and after January 1, 2012, aid shall be granted under
20 this chapter to or on behalf of any nonminor dependent, as defined
21 in subdivision (v) of Section 11400, if the nonminor dependent is
22 placed in the approved home of a relative under the supervision
23 of the county child welfare or probation department or Indian tribe
24 that has entered into an agreement pursuant to Section 10553.1,
25 and the nonminor dependent otherwise is eligible pursuant to
26 Section 11403.

27 (2) The eligible nonminor dependent shall be exempt from
28 Chapter 4.6 (commencing with Section 10830) of Part 2 governing
29 the statewide fingerprint imaging system.

30 (c) Notwithstanding any other law, payment of aid under this
31 chapter may be made out of state if the nonminor dependent who
32 is described in subdivision (b) is placed in the approved home of
33 a relative who resides in another state.

34 ~~SEC. 36.~~

35 *SEC. 35.* Section 11263.5 of the Welfare and Institutions Code
36 is amended to read:

37 11263.5. Notwithstanding any other provision of this chapter,
38 a child living with his or her parent, where the parent is a minor
39 or a nonminor dependent, as described in subdivision (v) of Section
40 11400, and who also is a recipient of foster care pursuant to Article

1 5 (commencing with Section 11400), is not an eligible child within
2 the meaning of this chapter for the purpose of payment of AFDC
3 benefits other than AFDC-FC benefits.

4 ~~SEC. 37. Section 11361 of the Welfare and Institutions Code~~
5 ~~is amended to read:~~

6 ~~11361. (a) The Legislature finds and declares that the~~
7 ~~continuation of the state-funded Kinship Guardianship Assistance~~
8 ~~Payment Program is intended to enhance family preservation and~~
9 ~~stability by recognizing that some dependent children and wards~~
10 ~~of the juvenile court who are not otherwise eligible under Subtitle~~
11 ~~IV-E (commencing with Section 470) of the federal Social Security~~
12 ~~Act (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements~~
13 ~~with relatives funded under the CalWORKs program pursuant to~~
14 ~~Section 11450, that these placements are the permanent plan for~~
15 ~~the child, that dependencies can be dismissed pursuant to Section~~
16 ~~366.3 with legal guardianship granted to the relative, and that there~~
17 ~~is no need for continued governmental intervention in the family~~
18 ~~life through ongoing, scheduled court and social services~~
19 ~~supervision of the placement. Continuation of the state-funded~~
20 ~~Kin-GAP Program is necessary to ensure that wards and dependent~~
21 ~~children of the juvenile court whose placement in the home of an~~
22 ~~approved relative is funded under the CalWORKs program are~~
23 ~~equally eligible for the benefits derived from legal permanency~~
24 ~~with the related guardian and that the state can maximize~~
25 ~~improvements to federal permanency outcome measures by exiting~~
26 ~~nonfederally eligible youth to the state's subsidized kinship~~
27 ~~guardianship program.~~

28 ~~(b) It is the intent of the Legislature that the benefits of the age~~
29 ~~extended state-funded Kinship Guardianship Assistance Payment~~
30 ~~Program be available to nonfederally eligible nonminor former~~
31 ~~wards and dependents, whose relationship to the guardian is defined~~
32 ~~in paragraph (2), (3), or (4) of subdivision (c) of Section 11391,~~
33 ~~upon the nonminor's attainment of 18 years of age, if the nonminor~~
34 ~~otherwise meets the eligibility criteria of this article. Federal~~
35 ~~guidance in ACYF-CB-PI-10-11 permits states to expand the~~
36 ~~definition of "relative" for purposes of federally funded Kin-GAP~~
37 ~~to include guardians who are nonrelated extended family members,~~
38 ~~tribal kin, and current caregivers of foster children. Nonminor~~
39 ~~former wards and dependents of these nonrelated guardians are~~
40 ~~not currently eligible for state or federally funded Kin-GAP, but~~

1 are only eligible for benefits pursuant to Section 11405, which
 2 requires ongoing county child welfare agency case management.
 3 By expanding the definition of relative for federally funded
 4 Kin-GAP for guardianships ordered in juvenile court for wards
 5 and dependents on or after October 1, 2012, the state achieves
 6 increases in federal financial participation assistance payments
 7 and achieves savings to child welfare case management. However,
 8 at 18 years of age, the continuation of state or federally funded
 9 Kin-GAP to nonminors is limited to nonminors whose Kin-GAP
 10 negotiated agreement payments commenced on or after 16 years
 11 of age. The Legislature finds and declares that the continuation of
 12 state-funded Kin-GAP to nonminors impacted by the expanded
 13 definition of “relative guardian” is necessary to ensure that
 14 inadvertent fiscal disincentives are not created for foster parents
 15 who want to become the legal guardians of foster children and that
 16 nonminor former wards and dependents continue to be eligible for
 17 Kin-GAP state-funded assistance payments in lieu of state-funded
 18 assistance payments that they would otherwise be entitled to
 19 receive under Section 11405.

20 SEC. 38.—Section 11362 of the Welfare and Institutions Code
 21 is amended to read:

22 11362. For purposes of this article, the following definitions
 23 shall apply:

24 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”
 25 means the state-funded aid provided under the terms of this article
 26 on behalf of children in kinship care who are not eligible for
 27 federally funded Kin-GAP pursuant to Section 11385.

28 (b) “Kinship guardian” means a person who (1) has been
 29 appointed the legal guardian of a dependent child pursuant to
 30 Section 360 or 366.26, or a ward of the juvenile court pursuant to
 31 subdivision (d) of Section 728 and (2) is a relative of the child.

32 (c) (1) “Relative” means an adult who is related to the child by
 33 blood, adoption, or affinity within the fifth degree of kinship,
 34 including stepparents, stepsiblings, and all relatives whose status
 35 is preceded by the words “great,” “great-great,” or “grand” or the
 36 spouse of any of those persons even if the marriage was terminated
 37 by death or dissolution.

38 (2) “Relative” also means a kinship guardian of a nonfederally
 39 eligible nonminor former ward or dependent who, at the time of
 40 appointment as a kinship guardian, met any of the following:

1 ~~(A) An adult who met the definition of an approved, nonrelated~~
2 ~~extended family member, as described in Section 362.7.~~

3 ~~(B) An adult who was either a member of the Indian child's~~
4 ~~tribe or an Indian custodian as defined in Section 1903(6) of Title~~
5 ~~25 of the United States Code.~~

6 ~~(C) An adult who was the current foster parent of a child under~~
7 ~~the juvenile court's jurisdiction, who has established a significant~~
8 ~~and family-like relationship with the child, and the child and the~~
9 ~~county child welfare agency, probation department, or Indian tribe,~~
10 ~~consortium of tribes, or tribal organization that has entered into~~
11 ~~an agreement pursuant to Section 10553.1 identified this adult as~~
12 ~~the child's permanent connection.~~

13 ~~(d) "Nonfederally eligible nonminor former ward or dependent"~~
14 ~~means a person who attains 18 years of age while in receipt of~~
15 ~~Kin-GAP benefits pursuant to Article 4.7 (commencing with~~
16 ~~Section 11385), whose relationship to the kinship guardian is~~
17 ~~defined in paragraph (2), (3), or (4) of subdivision (c) of Section~~
18 ~~11391, and who was under 16 years of age at the time the Kin-GAP~~
19 ~~negotiated agreement payments commenced.~~

20 ~~SEC. 39.~~

21 ~~SEC. 36.~~ Section 11363 of the Welfare and Institutions Code
22 is amended to read:

23 11363. (a) Aid in the form of state-funded Kin-GAP shall be
24 provided under this article on behalf of any child under 18 years
25 of age and to any eligible youth under 19 years of age as provided
26 in Section 11403, who satisfies all of the following conditions:

27 (1) Has been adjudged a dependent child of the juvenile court
28 pursuant to Section 300, or, effective October 1, 2006, a ward of
29 the juvenile court pursuant to Section 601 or 602.

30 (2) Has been residing for at least six consecutive months in the
31 approved home of the prospective relative guardian while under
32 the jurisdiction of the juvenile court or a voluntary placement
33 agreement.

34 (3) Has had a kinship guardianship established pursuant to
35 Section 360 or 366.26.

36 (4) Has had his or her dependency jurisdiction terminated after
37 January 1, 2000, pursuant to Section 366.3, or his or her wardship
38 terminated pursuant to subdivision (d) of Section 728, concurrently
39 or subsequently to the establishment of the kinship guardianship.

1 (b) If the conditions specified in subdivision (a) are met and,
2 subsequent to the termination of dependency jurisdiction, any
3 parent or person having an interest files with the juvenile court a
4 petition pursuant to Section 388 to change, modify, or set aside an
5 order of the court, Kin-GAP payments shall continue unless and
6 until the juvenile court, after holding a hearing, orders the child
7 removed from the home of the guardian, terminates the
8 guardianship, or maintains dependency jurisdiction after the court
9 concludes the hearing on the petition filed under Section 388.

10 (c) A child or nonminor former dependent or ward shall be
11 eligible for Kin-GAP payments if he or she meets one of the
12 following age criteria:

13 (1) He or she is under 18 years of age.

14 (2) He or she is under 21 years of age and has a physical or
15 mental disability that warrants the continuation of assistance.

16 (3) Through December 31, 2011, he or she satisfies the
17 conditions of Section 11403, and on and after January 1, 2012, he
18 or she satisfies the conditions of Section 11403.01.

19 (4) He or she satisfies the conditions as described in subdivision
20 (d).

21 (d) Commencing January 1, 2012, state-funded Kin-GAP
22 payments shall continue for youths who have attained 18 years of
23 age and who are under 19 years of age, if they reached 16 years
24 of age before the Kin-GAP negotiated agreement payments
25 commenced, and as described in Section 10103.5. Effective January
26 1, 2013, Kin-GAP payments shall continue for youths who have
27 attained 18 years of age and are under 20 years of age, if they
28 reached 16 years of age before the Kin-GAP negotiated agreement
29 payments commenced, and as described in Section 10103.5.
30 Effective January 1, 2014, Kin-GAP payments shall continue for
31 youths who have attained 18 years of age and are under 21 years
32 of age, if they reached 16 years of age before the Kin-GAP
33 negotiated agreement payments commenced. To be eligible for
34 continued payments, the youth shall satisfy one or more of the
35 conditions specified in paragraphs (1) to (5), inclusive, of
36 subdivision (b) of Section 11403.

37 (e) Termination of the guardianship with a kinship guardian
38 shall terminate eligibility for Kin-GAP unless the conditions in
39 Section 11403 apply; provided, however, that if an alternate
40 guardian or co-guardian is appointed pursuant to Section 366.3 who

1 is also a kinship guardian, the alternate or coguardian shall be
2 entitled to receive Kin-GAP on behalf of the child pursuant to this
3 article. A new period of six months of placement with the alternate
4 guardian or coguardian shall not be required if that alternate
5 guardian or coguardian has been assessed pursuant to Sections
6 361.3 and 361.4 and the court terminates dependency jurisdiction.

7 ~~SEC. 40. Section 11363.1 is added to the Welfare and~~
8 ~~Institutions Code, to read:~~

9 ~~11363.1. (a) It is the intent of the Legislature to provide a~~
10 ~~seamless and minimally intrusive process to allow an otherwise~~
11 ~~nonfederally eligible nonminor former ward or dependent who~~
12 ~~attains 18 years of age while in receipt of federally funded~~
13 ~~Kin-GAP assistance payments pursuant to Article 4.7 (commencing~~
14 ~~with Section 11385) to transition to state-funded Kin-GAP under~~
15 ~~this article with minimal disruption to the existing relative guardian~~
16 ~~and the child, and with no break in the continuity of assistance~~
17 ~~payments.~~

18 ~~(b) Nonfederally eligible nonminor former ward or dependents,~~
19 ~~as defined in subdivision (c) of Section 11362 shall be eligible for~~
20 ~~transition to state-funded Kin-GAP benefits under this article on~~
21 ~~their 18th birthday if they otherwise meet eligibility conditions of~~
22 ~~age-extended Kin-GAP, including meeting the participation criteria~~
23 ~~as specified in paragraphs (1) to (5), inclusive, of subdivision (b)~~
24 ~~of Section 11403.~~

25 ~~SEC. 41.~~

26 ~~SEC. 37. Section 11364 of the Welfare and Institutions Code~~
27 ~~is amended to read:~~

28 ~~11364. (a) In order to receive payments under this article, the~~
29 ~~county child welfare agency, probation department, Indian tribe,~~
30 ~~consortium of tribes, or tribal organization that has entered into~~
31 ~~an agreement pursuant to Section 10553.1, shall negotiate and~~
32 ~~enter into a written, binding, kinship guardianship assistance~~
33 ~~agreement with the relative guardian of an eligible child, and~~
34 ~~provide the relative guardian with a copy of the agreement.~~

35 ~~(b) The agreement shall specify, at a minimum, all of the~~
36 ~~following:~~

37 ~~(1) The amount of and manner in which the kinship guardianship~~
38 ~~assistance payment will be provided under the agreement, and that~~
39 ~~the amount is subject to any applicable increases pursuant to~~
40 ~~cost-of-living adjustments established by statute, and the manner~~

1 in which the agreement may be adjusted periodically, but no less
2 frequently than every two years, in consultation with the relative
3 guardian, based on the circumstances of the relative guardian and
4 the needs of the child.

5 (2) Additional services and assistance for which the child and
6 relative guardian will be eligible under the agreement.

7 (3) A procedure by which the relative guardian may apply for
8 additional services, as needed, including the filing of a petition
9 under Section 388 to have dependency jurisdiction resumed
10 pursuant to subdivision (b) of Section 366.3.

11 (4) That the agreement shall remain in effect regardless of the
12 state of residency of the relative guardian.

13 (5) The responsibility of the relative guardian for reporting
14 changes in the needs of the child or the circumstances of the
15 relative guardian that affect payment.

16 (6) For guardianships established on and after January 1, 2012,
17 payment shall be made for reasonable and verified nonrecurring
18 expenses associated with obtaining legal guardianship not to exceed
19 the amount specified in federal law. Reimbursement shall not be
20 made for costs otherwise reimbursed from other sources, including
21 the foster care maintenance payment. The agreement shall indicate
22 the maximum amount, the purpose of the expense, and the process
23 for obtaining reimbursement of the nonrecurring expenses to be
24 paid.

25 (c) In accordance with the Kin-GAP agreement, the relative
26 guardian shall be paid an amount of aid based on the child's needs
27 otherwise covered in AFDC-FC payments and the circumstances
28 of the relative guardian, but that shall not exceed the foster care
29 maintenance payment that would have been paid based on the
30 age-related state-approved foster family home care rate and any
31 applicable specialized care increment for a child placed in a
32 licensed or approved family home pursuant to subdivisions (a) to
33 (d), inclusive, of Section 11461. In addition, the rate paid for a
34 child eligible for a Kin-GAP payment shall include an amount
35 equal to the clothing allowance, as set forth in subdivision (f) of
36 Section 11461, including any applicable rate adjustments. For a
37 child eligible for a Kin-GAP payment who is a teen parent, the
38 rate shall include the two-hundred-dollar (\$200) monthly payment
39 made to the relative caregiver in a whole family foster home
40 pursuant to paragraph (3) of subdivision (d) of Section 11465.

1 (d) Commencing on the effective date of the act that added this
2 subdivision, and notwithstanding subdivision (c), in accordance
3 with the Kin-GAP agreement, the relative guardian shall be paid
4 an amount of aid based on the child's needs otherwise covered in
5 AFDC-FC payments and the circumstances of the relative guardian,
6 as follows:

7 (1) For cases in which the dependency has been dismissed
8 pursuant to Section 366.3 or wardship has been terminated pursuant
9 to subdivision (d) of Section 728, concurrently or subsequently to
10 establishment of the guardianship, on or before June 30, 2011, or
11 the date specified in a final order, for which the time to appeal has
12 passed, issued by a court of competent jurisdiction in California
13 State Foster Parent Association, et al. v. William Lightbourne, et
14 al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier,
15 the rate paid shall not exceed the basic foster care maintenance
16 payment rate structure in effect prior to the effective date specified
17 in the order described in this paragraph.

18 (2) For cases in which dependency has been dismissed pursuant
19 to Section 366.3 or wardship has been terminated pursuant to
20 subdivision (d) of Section 728, concurrently or subsequently to
21 establishment of the guardianship, on or after July 1, 2011, or the
22 date specified in the order described in paragraph (1), whichever
23 is earlier, the rate paid shall not exceed the basic foster care
24 maintenance payment rate as set forth in paragraph (1) of
25 subdivision (g) of Section 11461.

26 (3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit
27 payments rate structure shall be adjusted annually by the percentage
28 change in the California Necessities Index, as set forth in paragraph
29 (2) of subdivision (g) of Section 11461, without requiring a new
30 agreement.

31 (4) In addition to the rate paid for a child eligible for a Kin-GAP
32 payment, a specialized care increment, if applicable, as set forth
33 in subdivision (e) of Section 11461, also shall be paid.

34 (5) In addition to the rate paid for a child eligible for a Kin-GAP
35 payment, a clothing allowance, as set forth in subdivision (f) of
36 Section 11461, also shall be paid.

37 (6) For a child eligible for a Kin-GAP payment who is a teen
38 parent, the rate shall include the two-hundred-dollar (\$200)
39 monthly payment made to the relative caregiver in a whole family

1 foster home pursuant to paragraph (3) of subdivision (d) of Section
2 11465.

3 (e) The county child welfare agency, probation department,
4 Indian tribe, consortium of tribes, or tribal organization that entered
5 into an agreement pursuant to Section 10553.1 shall provide the
6 relative guardian with information, in writing, on the availability
7 of the Kin-GAP program with an explanation of the difference
8 between these benefits and Adoption Assistance Program benefits
9 and AFDC-FC benefits. The agency shall also provide the relative
10 guardian with information on the availability of mental health
11 services through the Medi-Cal program or other programs.

12 (f) The county child welfare agency, probation department,
13 Indian tribe, consortium of tribes, or tribal organization, as
14 appropriate, shall assess the needs of the child and the
15 circumstances of the related guardian and is responsible for
16 determining that the child meets the eligibility criteria for payment.

17 (g) Payments on behalf of a child who is a recipient of Kin-GAP
18 benefits and who is also a consumer of regional center services
19 shall be based on the rates established by the State Department of
20 Social Services pursuant to Section 11464.

21 ~~SEC. 42.~~

22 *SEC. 38.* Section 11386 of the Welfare and Institutions Code
23 is amended to read:

24 11386. Aid shall be provided under this article on behalf of a
25 child under 18 years of age, and to any eligible youth under 19
26 years of age, as provided in Section 11403, under all of the
27 following conditions:

28 (a) The child satisfies both of the following requirements:

29 (1) He or she has been removed from his or her home pursuant
30 to a voluntary placement agreement, or as a result of judicial
31 determination, including being adjudged a dependent child of the
32 court, pursuant to Section 300, or a ward of the court, pursuant to
33 Section 601 or 602, to the effect that continuation in the home
34 would be contrary to the welfare of the child.

35 (2) He or she has been eligible for federal foster care
36 maintenance payments under Article 5 (commencing with Section
37 11400) while residing for at least six consecutive months in the
38 approved home of the prospective relative guardian while under
39 the jurisdiction of the juvenile court or a voluntary placement
40 agreement.

1 (b) Being returned to the parental home or adopted are not
2 appropriate permanency options for the child.

3 (c) The child demonstrates a strong attachment to the relative
4 guardian, and the relative guardian has a strong commitment to
5 caring permanently for the child and, with respect to the child who
6 has attained 12 years of age, the child has been consulted regarding
7 the kinship guardianship arrangement.

8 (d) The child has had a kinship guardianship established
9 pursuant to Section 360 or 366.26.

10 (e) The child has had his or her dependency jurisdiction
11 terminated pursuant to Section 366.3, or his or her wardship
12 terminated pursuant to subdivision (d) of Section 728, concurrently
13 or subsequently to the establishment of the kinship guardianship.

14 (f) If the conditions specified in subdivisions (a) through (e),
15 inclusive, are met and, subsequent to the termination of dependency
16 jurisdiction, any parent or person having an interest files with the
17 juvenile court a petition pursuant to Section 388 to change, modify,
18 or set aside an order of the court, Kin-GAP payments shall continue
19 unless and until the juvenile court orders the child removed from
20 the home of the guardian, terminates the guardianship, or maintains
21 dependency jurisdiction after the court concludes the hearing on
22 the petition filed under Section 388.

23 (g) A child or nonminor former dependent or ward shall be
24 eligible for Kin-GAP payments if he or she meets one of the
25 following age criteria:

26 (1) He or she is under 18 years of age.

27 (2) He or she is under 21 years of age and has a physical or
28 mental disability that warrants the continuation of assistance.

29 (3) Through December 31, 2011, he or she satisfies the
30 conditions of Section 11403, and on and after January 1, 2012, he
31 or she satisfies the conditions of Section 11403.01.

32 (4) He or she satisfies the conditions as described in subdivision
33 (h).

34 (h) Effective January 1, 2012, Kin-GAP payments shall continue
35 for youths who have attained 18 years of age and are under 19
36 years of age, if they reached 16 years of age before the Kin-GAP
37 negotiated agreement payments commenced, and as described in
38 Section 10103.5. Effective January 1, 2013, Kin-GAP payments
39 shall continue for youths who have attained 18 years of age and
40 are under 20 years of age, if they reached 16 years of age before

1 the Kin-GAP negotiated agreement payments commenced, and as
2 described in Section 10103.5. Effective January 1, 2014, Kin-GAP
3 payments shall continue for youths who have attained 18 years of
4 age and are under 21 years of age, if they reached 16 years of age
5 before the Kin-GAP negotiated agreement payments commenced.
6 To be eligible for continued payments, the youth shall satisfy one
7 or more of the conditions specified in paragraphs (1) to (5),
8 inclusive, of subdivision (b) of Section 11403.

9 (i) Termination of the guardianship with a kinship guardian
10 shall terminate eligibility for Kin-GAP, unless the conditions of
11 Section 11403 apply, provided, however, that if an alternate
12 guardian or coguardian is appointed pursuant to Section 366.3 who
13 is also a kinship guardian, the alternate or coguardian shall be
14 entitled to receive Kin-GAP on behalf of the child pursuant to this
15 article. A new period of six months of placement with the alternate
16 guardian or coguardian shall not be required if that alternate
17 guardian or coguardian has been assessed pursuant to Section 361.3
18 and Section 361.4 and the court terminates dependency jurisdiction,
19 subject to federal approval of amendments to the state plan.

20 ~~SEC. 43.~~

21 *SEC. 39.* Section 11387 of the Welfare and Institutions Code
22 is amended to read:

23 11387. (a) In order to receive federal financial participation
24 for payments under this article, the county child welfare agency
25 or probation department, Indian tribe, consortium of tribes, or tribal
26 organization that entered into an agreement pursuant to Section
27 10553.1 shall negotiate and enter into a written, binding, kinship
28 guardianship assistance agreement with the relative guardian of
29 an eligible child, and provide the relative guardian with a copy of
30 the agreement. The negotiated agreement shall be executed prior
31 to establishment of the guardianship.

32 (b) The agreement shall specify, at a minimum, all of the
33 following:

34 (1) The amount of and manner in which the kinship guardianship
35 assistance payment will be provided under the agreement, that the
36 amount is subject to any applicable increases pursuant to
37 cost-of-living adjustments established by statute and the manner
38 in which the agreement may be adjusted periodically, but no less
39 frequently than every two years, in consultation with the relative

1 guardian, based on the circumstances of the relative guardian and
2 the needs of the child.

3 (2) Additional services and assistance for which the child and
4 relative guardian will be eligible under the agreement.

5 (3) A procedure by which the relative guardian may apply for
6 additional services, as needed, including, but not limited to, the
7 filing of a petition under Section 388 to have dependency
8 jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

9 (4) The agreement shall provide that it shall remain in effect
10 regardless of the state of residency of the relative guardian.

11 (5) The responsibility of the relative guardian for reporting
12 changes in the needs of the child or the circumstances of the
13 relative guardian that affect payment.

14 (6) For a guardianship established on and after January 1, 2012,
15 payment shall be made for reasonable and verified nonrecurring
16 expenses associated with obtaining legal guardianship not to exceed
17 the amount specified in federal law. Reimbursement shall not be
18 made for costs otherwise reimbursed from other sources, including
19 the foster care maintenance payment. The agreement shall indicate
20 the maximum amount, the purpose of the expense, and the process
21 for obtaining reimbursement of the nonrecurring expenses to be
22 paid.

23 (c) In accordance with the Kin-GAP agreement, the relative
24 guardian shall be paid an amount of aid based on the child's needs
25 otherwise covered in AFDC-FC payments and the circumstances
26 of the relative guardian but that shall not exceed the foster care
27 maintenance payment that would have been paid based on the
28 age-related state-approved foster family home care rate and any
29 applicable specialized care increment for a child placed in a
30 licensed or approved family home pursuant to subdivisions (a) to
31 (d), inclusive, of Section 11461. In addition, the rate paid for a
32 child eligible for a Kin-GAP payment shall include an amount
33 equal to the clothing allowance, as set forth in subdivision (f) of
34 Section 11461, including any applicable rate adjustments. For a
35 child eligible for a Kin-GAP payment who is a teen parent, the
36 rate shall include the two-hundred-dollar (\$200) monthly payment
37 made to the relative caregiver in a whole family foster home
38 pursuant to paragraph (3) of subdivision (d) of Section 11465.

39 (d) Commencing on the effective date of the act that added this
40 subdivision, and notwithstanding subdivision (c), in accordance

1 with the Kin-GAP agreement the relative guardian shall be paid
2 an amount of aid based on the child's needs otherwise covered in
3 AFDC-FC payments and the circumstances of the relative guardian,
4 as follows:

5 (1) For cases in which the dependency has been dismissed
6 pursuant to Section 366.3 or wardship has been terminated pursuant
7 to subdivision (e) of Section 728, concurrently or subsequently to
8 establishment of the guardianship, on or before June 30, 2011, or
9 the date specified in a final order, for which the time to appeal has
10 passed, issued by a court of competent jurisdiction in California
11 State Foster Parent Association et al. v. William Lightbourne, et
12 al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier,
13 the rate paid shall not exceed the basic foster care maintenance
14 payment rate structure in effect prior to the effective date specified
15 in the order described in this paragraph.

16 (2) For cases in which dependency has been dismissed pursuant
17 to Section 366.3 or wardship has been terminated pursuant to
18 subdivision (d) of Section 728, concurrently or subsequently to
19 establishment of the guardianship, on or after July 1, 2011, or the
20 date specified in the order described in paragraph (1), whichever
21 is earlier, the rate paid shall not exceed the basic foster care
22 maintenance payment rate as set forth in paragraph (1) of
23 subdivision (g) of Section 11461.

24 (3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit
25 payment rate structure shall be adjusted annually by the percentage
26 change in the California Necessities Index, as set forth in paragraph
27 (2) of subdivision (g) of Section 11461, without requiring a new
28 agreement.

29 (4) In addition to the rate paid for a child eligible for a Kin-GAP
30 payment, a specialized care increment, if applicable, as set forth
31 in subdivision (e) of Section 11461, shall be paid.

32 (5) In addition to the rate paid for a child eligible for a Kin-GAP
33 payment, a clothing allowance, as set forth in subdivision (f) of
34 Section 11461, shall be paid.

35 (6) For a child eligible for a Kin-GAP payment who is a teen
36 parent, the rate shall include the two-hundred-dollar (\$200)
37 monthly payment made to the relative caregiver in a whole family
38 foster home pursuant to paragraph (3) of subdivision (d) of Section
39 11465.

1 (e) The county child welfare agency or probation department,
2 Indian tribe, consortium of tribes, or tribal organization that entered
3 into an agreement pursuant to Section 10553.1 shall provide the
4 relative guardian with information, in writing, on the availability
5 of the federal Kin-GAP program with an explanation of the
6 difference between these benefits and Adoption Assistance Program
7 benefits and AFDC-FC benefits. The agency shall also provide
8 the relative guardian with information on the availability of mental
9 health services through the Medi-Cal program or other programs.

10 (f) The county child welfare agency, probation department, or
11 Indian tribe, as appropriate, shall assess the needs of the child and
12 the circumstances of the related guardian and is responsible for
13 determining that the child meets the eligibility criteria for payment.

14 (g) Payments on behalf of a child who is a recipient of Kin-GAP
15 benefits and who is also a consumer of regional center services
16 shall be based on the rates established by the State Department of
17 Social Services pursuant to Section 11464.

18 ~~SEC. 44.~~

19 *SEC. 40.* Section 11391 of the Welfare and Institutions Code
20 is amended to read:

21 11391. For purposes of this article, the following definitions
22 shall apply:

23 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”
24 means the aid provided on behalf of children eligible for federal
25 financial participation under Section 671(a)(28) of Title 42 of the
26 United States Code in kinship care under the terms of this article.

27 (b) “Kinship guardian” means a person who meets both of the
28 following criteria:

29 (1) He or she has been appointed the legal guardian of a
30 dependent child pursuant to Section 366.26 or Section 360 or a
31 ward of the juvenile court pursuant to subdivision (d) of Section
32 728.

33 (2) He or she is a relative of the child.

34 (c) “Relative,” subject to federal approval of amendments to
35 the state plan, means any of the following:

36 (1) An adult who is related to the child by blood, adoption, or
37 affinity within the fifth degree of kinship, including stepparents,
38 stepsiblings, and all relatives whose status is preceded by the words
39 “great,” “great-great,” or “grand” or the spouse of any of those

1 persons even if the marriage was terminated by death or
2 dissolution.

3 (2) An adult who meets the definition of an approved, nonrelated
4 extended family member, as described in Section 362.7.

5 (3) An adult who is either a member of the Indian child’s tribe,
6 or an Indian custodian, as defined in Section 1903(6) of Title 25
7 of the United States Code.

8 (4) An adult who is the current foster parent of a child under
9 the juvenile court’s jurisdiction, who has established a significant
10 and family-like relationship with the child, and the child and the
11 county child welfare agency, probation department, Indian tribe,
12 consortium of tribes, or tribal organization that has entered into
13 an agreement pursuant to Section 10553.1 identify this adult as
14 the child’s permanent connection.

15 (d) “Sibling” means a child related to the identified eligible
16 child by blood, adoption, or affinity through a common legal or
17 biological parent.

18 ~~SEC. 45.~~

19 *SEC. 41.* Section 11400 of the Welfare and Institutions Code
20 is amended to read:

21 11400. For the purposes of this article, the following definitions
22 shall apply:

23 (a) “Aid to Families with Dependent Children-Foster Care
24 (AFDC-FC)” means the aid provided on behalf of needy children
25 in foster care under the terms of this division.

26 (b) “Case plan” means a written document that, at a minimum,
27 specifies the type of home in which the child shall be placed, the
28 safety of that home, and the appropriateness of that home to meet
29 the child’s needs. It shall also include the agency’s plan for
30 ensuring that the child receive proper care and protection in a safe
31 environment, and shall set forth the appropriate services to be
32 provided to the child, the child’s family, and the foster parents, in
33 order to meet the child’s needs while in foster care, and to reunify
34 the child with the child’s family. In addition, the plan shall specify
35 the services that will be provided or steps that will be taken to
36 facilitate an alternate permanent plan if reunification is not possible.

37 (c) “Certified family home” means a family residence certified
38 by a licensed foster family agency and issued a certificate of
39 approval by that agency as meeting licensing standards, and used
40 only by that foster family agency for placements.

1 (d) “Family home” means the family residency of a licensee in
2 which 24-hour care and supervision are provided for children.

3 (e) “Small family home” means any residential facility, in the
4 licensee’s family residence, which provides 24-hour care for six
5 or fewer foster children who have mental disorders or
6 developmental or physical disabilities and who require special care
7 and supervision as a result of their disabilities.

8 (f) “Foster care” means the 24-hour out-of-home care provided
9 to children whose own families are unable or unwilling to care for
10 them, and who are in need of temporary or long-term substitute
11 parenting.

12 (g) “Foster family agency” means any individual or organization
13 engaged in the recruiting, certifying, and training of, and providing
14 professional support to, foster parents, or in finding homes or other
15 places for placement of children for temporary or permanent care
16 who require that level of care as an alternative to a group home.
17 Private foster family agencies shall be organized and operated on
18 a nonprofit basis.

19 (h) “Group home” means a nondetention privately operated
20 residential home, organized and operated on a nonprofit basis only,
21 of any capacity, or a nondetention licensed residential care home
22 operated by the County of San Mateo with a capacity of up to 25
23 beds, that provides services in a group setting to children in need
24 of care and supervision, as required by paragraph (1) of subdivision
25 (a) of Section 1502 of the Health and Safety Code.

26 (i) “Periodic review” means review of a child’s status by the
27 juvenile court or by an administrative review panel, that shall
28 include a consideration of the safety of the child, a determination
29 of the continuing need for placement in foster care, evaluation of
30 the goals for the placement and the progress toward meeting these
31 goals, and development of a target date for the child’s return home
32 or establishment of alternative permanent placement.

33 (j) “Permanency planning hearing” means a hearing conducted
34 by the juvenile court in which the child’s future status, including
35 whether the child shall be returned home or another permanent
36 plan shall be developed, is determined.

37 (k) “Placement and care” refers to the responsibility for the
38 welfare of a child vested in an agency or organization by virtue of
39 the agency or organization having (1) been delegated care, custody,
40 and control of a child by the juvenile court, (2) taken responsibility,

1 pursuant to a relinquishment or termination of parental rights on
2 a child, (3) taken the responsibility of supervising a child detained
3 by the juvenile court pursuant to Section 319 or 636, or (4) signed
4 a voluntary placement agreement for the child's placement; or to
5 the responsibility designated to an individual by virtue of his or
6 her being appointed the child's legal guardian.

7 (l) "Preplacement preventive services" means services that are
8 designed to help children remain with their families by preventing
9 or eliminating the need for removal.

10 (m) "Relative" means an adult who is related to the child by
11 blood, adoption, or affinity within the fifth degree of kinship,
12 including stepparents, stepsiblings, and all relatives whose status
13 is preceded by the words "great," "great-great," or "grand" or the
14 spouse of any of these persons even if the marriage was terminated
15 by death or dissolution.

16 (n) "Nonrelative extended family member" means an adult
17 caregiver who has an established familial or mentoring relationship
18 with the child, as described in Section 362.7.

19 (o) "Voluntary placement" means an out-of-home placement
20 of a child by (1) the county welfare department, probation
21 department, or Indian tribe that has entered into an agreement
22 pursuant to Section 10553.1, after the parents or guardians have
23 requested the assistance of the county welfare department and have
24 signed a voluntary placement agreement; or (2) the county welfare
25 department licensed public or private adoption agency, or the
26 department acting as an adoption agency, after the parents have
27 requested the assistance of either the county welfare department,
28 the licensed public or private adoption agency, or the department
29 acting as an adoption agency for the purpose of adoption planning,
30 and have signed a voluntary placement agreement.

31 (p) "Voluntary placement agreement" means a written agreement
32 between either the county welfare department, probation
33 department, or Indian tribe that has entered into an agreement
34 pursuant to Section 10553.1, licensed public or private adoption
35 agency, or the department acting as an adoption agency, and the
36 parents or guardians of a child that specifies, at a minimum, the
37 following:

38 (1) The legal status of the child.

39 (2) The rights and obligations of the parents or guardians, the
40 child, and the agency in which the child is placed.

1 (q) “Original placement date” means the most recent date on
2 which the court detained a child and ordered an agency to be
3 responsible for supervising the child or the date on which an agency
4 assumed responsibility for a child due to termination of parental
5 rights, relinquishment, or voluntary placement.

6 (r) (1) “Transitional housing placement provider” means an
7 organization licensed by the State Department of Social Services
8 pursuant to Section 1559.110 of the Health and Safety Code, to
9 provide transitional housing to foster children at least 16 years of
10 age and not more than 18 years of age, and nonminor dependents,
11 as defined in subdivision (v). A transitional housing placement
12 provider shall be privately operated and organized on a nonprofit
13 basis.

14 (2) Prior to licensure, a provider shall obtain certification from
15 the applicable county, in accordance with Section 16522.1.

16 (s) “Transitional Housing Program-Plus” means a provider
17 certified by the applicable county, in accordance with subdivision
18 (c) of Section 16522, to provide transitional housing services to
19 former foster youth who have exited the foster care system on or
20 after their 18th birthday.

21 (t) “Whole family foster home” means a new or existing family
22 home, approved relative caregiver or nonrelative extended family
23 member’s home, the home of a nonrelated legal guardian whose
24 guardianship was established pursuant to Section 360 or 366.26,
25 certified family home, or a host family home placement of a
26 transitional housing placement provider, that provides foster care
27 for a minor or nonminor dependent parent and his or her child,
28 and is specifically recruited and trained to assist the minor or
29 nonminor dependent parent in developing the skills necessary to
30 provide a safe, stable, and permanent home for his or her child.
31 The child of the minor or nonminor dependent parent need not be
32 the subject of a petition filed pursuant to Section 300 to qualify
33 for placement in a whole family foster home.

34 (u) “Mutual agreement” means any of the following:

35 (1) A written voluntary agreement of consent for continued
36 placement and care in a supervised setting between a minor or, on
37 and after January 1, 2012, a nonminor dependent, and the county
38 welfare services or probation department or tribal agency
39 responsible for the foster care placement, that documents the
40 nonminor’s continued willingness to remain in supervised

1 out-of-home placement under the placement and care of the
2 responsible county, tribe, consortium of tribes, or tribal
3 organization that has entered into an agreement with the state
4 pursuant to Section 10553.1, remain under the jurisdiction of the
5 juvenile court as a nonminor dependent, and report any change of
6 circumstances relevant to continued eligibility for foster care
7 payments, and that documents the nonminor’s and social worker’s
8 or probation officer’s agreement to work together to facilitate
9 implementation of the mutually developed supervised placement
10 agreement and transitional independent living case plan.

11 (2) An agreement, as described in paragraph (1), between a
12 nonminor former dependent or ward in receipt of Kin-GAP
13 payments under Article 4.5 (commencing with Section 11360) or
14 Article 4.7 (commencing with Section 11385), and the agency
15 responsible for the Kin-GAP benefits, provided that the nonminor
16 former dependent or ward satisfies the conditions described in
17 Section 11403.01, or one or more of the conditions described in
18 paragraphs (1) to (5), inclusive, of subdivision (b) of Section
19 11403. For purposes of this paragraph and paragraph (3),
20 “nonminor former dependent or ward” has the same meaning as
21 described in subdivision (aa).

22 (3) An agreement, as described in paragraph (1), between a
23 nonminor former dependent or ward in receipt of AFDC-FC
24 payments under subdivision (e) or (f) of Section 11405 and the
25 agency responsible for the AFDC-FC benefits, provided that the
26 nonminor former dependent or ward described in subdivision (e)
27 of Section 11405 satisfies one or more of the conditions described
28 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
29 11403, and the nonminor described in subdivision (f) of Section
30 11405 satisfies the secondary school or equivalent training or
31 certificate program conditions described in that subdivision.

32 (v) “Nonminor dependent” means, on and after January 1, 2012,
33 a foster child, as described in Section 675(8)(B) of Title 42 of the
34 United States Code under the federal Social Security Act who is
35 a current dependent child or ward of the juvenile court, or a
36 nonminor under the transition jurisdiction of the juvenile court, as
37 described in Section 450, who satisfies all of the following criteria:

38 (1) He or she has attained 18 years of age while under an order
39 of foster care placement by the juvenile court, and is not more than
40 19 years of age on or after January 1, 2012, not more than 20 years

1 of age on or after January 1, 2013, or not more than 21 years of
2 age on or after January 1, 2014, and as described in Section
3 10103.5.

4 (2) He or she is in foster care under the placement and care
5 responsibility of the county welfare department, county probation
6 department, Indian tribe, consortium of tribes, or tribal organization
7 that entered into an agreement pursuant to Section 10553.1.

8 (3) He or she is participating in a transitional independent living
9 case plan pursuant to Section 475(8) of the federal Social Security
10 Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering
11 Connections to Success and Increasing Adoptions Act of 2008
12 (Public Law 110-351), as described in Section 11403.

13 (w) “Supervised independent living placement” means, on and
14 after January 1, 2012, an independent supervised setting, as
15 specified in a nonminor dependent’s transitional independent living
16 case plan, in which the youth is living independently, pursuant to
17 Section 472(c)(2) of the Social Security Act (42 U.S.C. Sec.
18 672(c)(2)).

19 (x) “Supervised independent living setting,” pursuant to Section
20 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec.
21 672(c)(2)), includes both a supervised independent living
22 placement, as defined in subdivision (w), and a residential housing
23 unit certified by the transitional housing placement provider
24 operating a Transitional Housing Placement-Plus Foster Care
25 program, as described in paragraph (2) of subdivision (a) of Section
26 16522.1.

27 (y) “Transitional independent living case plan” means, on or
28 after January 1, 2012, the nonminor dependent’s case plan, updated
29 every six months, that describes the goals and objectives of how
30 the nonminor will make progress in the transition to living
31 independently and assume incremental responsibility for adult
32 decisionmaking, the collaborative efforts between the nonminor
33 and the social worker, probation officer, or Indian tribal placing
34 entity and the supportive services as described in the transitional
35 independent living plan (TILP) to ensure active and meaningful
36 participation in one or more of the eligibility criteria described in
37 paragraphs (1) to (5), inclusive, of subdivision (b) of Section
38 11403, the nonminor’s appropriate supervised placement setting,
39 and the nonminor’s permanent plan for transition to living
40 independently, which includes maintaining or obtaining permanent

1 connections to caring and committed adults, as set forth in
2 paragraph (16) of subdivision (f) of Section 16501.1.

3 (z) “Voluntary reentry agreement” means a written voluntary
4 agreement between a former dependent child or ward or a former
5 nonminor dependent, who has had juvenile court jurisdiction
6 terminated pursuant to Section 391, 452 or 607.2, and the county
7 welfare or probation department or tribal placing entity that
8 documents the nonminor’s desire and willingness to reenter foster
9 care, to be placed in a supervised setting under the placement and
10 care responsibility of the placing agency, the nonminor’s desire,
11 willingness, and ability to immediately participate in one or more
12 of the conditions of paragraphs (1) to (5), inclusive, of subdivision
13 (b) of Section 11403, the nonminor’s agreement to work
14 collaboratively with the placing agency to develop his or her
15 transitional independent living case plan within 60 days of reentry,
16 the nonminor’s agreement to report any changes of circumstances
17 relevant to continued eligibility for foster care payments, and (1)
18 the nonminor’s agreement to participate in the filing of a petition
19 for juvenile court jurisdiction as a nonminor dependent pursuant
20 to subdivision (e) of Section 388 within 15 judicial days of the
21 signing of the agreement and the placing agency’s efforts and
22 supportive services to assist the nonminor in the reentry process,
23 or (2) if the nonminor meets the definition of a nonminor former
24 dependent or ward, as described in subdivision (aa), the nonminor’s
25 agreement to return to the care and support of his or her former
26 juvenile court-appointed guardian and meet the eligibility criteria
27 for AFDC-FC pursuant to subdivision (e) of Section 11405.

28 (aa) “Nonminor former dependent or ward” means, on and after
29 January 1, 2012, either of the following:

30 (1) A nonminor who reached 18 years of age while subject to
31 an order for foster care placement, and for whom dependency,
32 delinquency, or transition jurisdiction has been terminated, and
33 who is still under the general jurisdiction of the court.

34 (2) A nonminor who is over 18 years of age and, while a minor,
35 was a dependent child or ward of the juvenile court when the
36 guardianship was established pursuant to Section 360 or 366.26,
37 or subdivision (d), of Section 728 and the juvenile court
38 dependency or wardship was dismissed following the establishment
39 of the guardianship.

1 ~~SEC. 46.~~

2 ~~SEC. 42.~~ Section 11402.2 of the Welfare and Institutions Code
3 is amended to read:

4 11402.2. Recognizing that transitions to independence involve
5 self-initiated changes in placements, it is the intent of the
6 Legislature that regulations developed regarding the approval of
7 the supervised independent living setting, as defined in subdivision
8 (w) of Section 11400, shall ensure continuity of placement and
9 payment while the nonminor dependent is awaiting approval of
10 his or her new supervised independent living setting, in accordance
11 with paragraph (2) of subdivision (c) of Section 1524 of the Health
12 and Safety Code.

13 ~~SEC. 47.~~

14 ~~SEC. 43.~~ Section 11403 of the Welfare and Institutions Code
15 is amended to read:

16 11403. (a) It is the intent of the Legislature to exercise the
17 option afforded states under Section 475(8) (42 U.S.C. Sec.
18 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
19 federal Social Security Act, as contained in the federal Fostering
20 Connections to Success and Increasing Adoptions Act of 2008
21 (Public Law 110-351), to receive federal financial participation
22 for nonminor dependents of the juvenile court who satisfy the
23 conditions of subdivision (b), consistent with their transitional
24 independent living case plan. Effective January 1, 2012, these
25 nonminor dependents shall be eligible to receive support up to 19
26 years of age, effective January 1, 2013, up to 20 years of age, and
27 effective January 1, 2014, up to 21 years of age, consistent with
28 their transitional independent living case plan and as described in
29 Section 10103.5. It is the intent of the Legislature both at the time
30 of initial determination of the nonminor dependent's eligibility
31 and throughout the time the nonminor dependent is eligible for aid
32 pursuant to this section, that the social worker or probation officer
33 or Indian tribal placing entity and the nonminor dependent shall
34 work together to ensure the nonminor dependent's ongoing
35 eligibility. All case planning shall be a collaborative effort between
36 the nonminor dependent and the social worker, probation officer,
37 or Indian tribe, with the nonminor dependent assuming increasing
38 levels of responsibility and independence.

39 (b) A nonminor dependent receiving aid pursuant to this chapter,
40 who satisfies the age criteria set forth in subdivision (a), shall meet

1 the legal authority for placement and care by being under a foster
2 care placement order by the juvenile court, or the voluntary reentry
3 agreement as set forth in subdivision (z) of Section 11400, and is
4 otherwise eligible for AFDC-FC payments pursuant to Section
5 11401. A nonminor who satisfies the age criteria set forth in
6 subdivision (a), and who is otherwise eligible, shall continue to
7 receive CalWORKs payments pursuant to Section 11253 or, as a
8 nonminor former dependent or ward, aid pursuant to Kin-GAP
9 under Article 4.5 (commencing with Section 11360) or Article 4.7
10 (commencing with Section 11385) or adoption assistance payments
11 as specified in Chapter 2.1 (commencing with Section 16115) of
12 Part 4. Effective January 1, 2012, a nonminor former dependent
13 child or ward of the juvenile court who is receiving AFDC-FC
14 benefits pursuant to Section 11405 and who satisfies the criteria
15 set forth in subdivision (a) shall be eligible to continue to receive
16 aid as long as the nonminor is otherwise eligible for AFDC-FC
17 benefits under this subdivision. This subdivision shall apply when
18 one or more of the following conditions exist:

19 (1) The nonminor is completing secondary education or a
20 program leading to an equivalent credential.

21 (2) The nonminor is enrolled in an institution which provides
22 postsecondary or vocational education.

23 (3) The nonminor is participating in a program or activity
24 designed to promote, or remove barriers to employment.

25 (4) The nonminor is employed for at least 80 hours per month.

26 (5) The nonminor is incapable of doing any of the activities
27 described in subparagraphs (1) to (4), inclusive, due to a medical
28 condition, and that incapability is supported by regularly updated
29 information in the case plan of the nonminor. The requirement to
30 update the case plan under this section shall not apply to nonminor
31 former dependents or wards in receipt of Kin-GAP program or
32 Adoption Assistance Program payments.

33 (c) The county child welfare or probation department, Indian
34 tribe, consortium of tribes, or tribal organization that has entered
35 into an agreement pursuant to Section 10553.1, shall work together
36 with a nonminor dependent who is in foster care on his or her 18th
37 birthday and thereafter or a nonminor former dependent receiving
38 aid pursuant to Section 11405, to satisfy one or more of the
39 conditions described in paragraphs (1) to (5), inclusive, of
40 subdivision (b) and shall certify the nonminor's applicable

1 condition or conditions in the nonminor’s six-month transitional
2 independent living case plan update, and provide the certification
3 to the eligibility worker and to the court at each six-month case
4 plan review hearing for the nonminor dependent. Relative
5 guardians who receive Kin-GAP payments and adoptive parents
6 who receive adoption assistance payments shall be responsible for
7 reporting to the county welfare agency that the nonminor does not
8 satisfy at least one of the conditions described in subdivision (b).
9 The social worker, probation officer, or tribal entity shall verify
10 and obtain assurances that the nonminor dependent continues to
11 satisfy at least one of the conditions in paragraphs (1) to (5),
12 inclusive, of subdivision (b) at each six-month transitional
13 independent living case plan update. The six-month case plan
14 update shall certify the nonminor’s eligibility pursuant to
15 subdivision (b) for the next six-month period. During the six-month
16 certification period, the payee and nonminor shall report any
17 change in placement or other relevant changes in circumstances
18 that may affect payment. The nonminor dependent, or nonminor
19 former dependent receiving aid pursuant to subdivision (e) of
20 Section 11405, shall be informed of all due process requirements,
21 in accordance with state and federal law, prior to an involuntary
22 termination of aid, and shall simultaneously be provided with a
23 written explanation of how to exercise his or her due process rights
24 and obtain referrals to legal assistance. Any notices of action
25 regarding eligibility shall be sent to the nonminor dependent or
26 former dependent, his or her counsel, as applicable, and the placing
27 worker, in addition to any other payee. Payments of aid pursuant
28 to Kin-GAP under Article 4.5 (commencing with Section 11360)
29 or Article 4.7 (commencing with Section 11385), adoption
30 assistance payments as specified in Chapter 2.1 (commencing with
31 Section 16115) of Part 4, or aid pursuant to subdivision (e) of
32 Section 11405 that are made on behalf of a nonminor former
33 dependent shall terminate subject to the terms of the agreements.
34 Subject to federal approval of amendments to the state plan, aid
35 payments may be suspended and resumed based on changes of
36 circumstances that affect eligibility. Nonminor former dependents,
37 *as identified in paragraph (2) of subdivision (aa) of Section 11400,*
38 are not eligible for reentry under subdivision (e) of Section 388 as
39 nonminor dependents under the jurisdiction of the juvenile court.
40 Nonminor former dependents requesting the resumption of

1 AFDC-FC payments pursuant to subdivision (e) of Section 11405
2 shall complete the applicable portions of the voluntary reentry
3 agreement, as described in subdivision (z) of Section 11400.

4 (d) A nonminor dependent may receive all of the payment
5 directly provided that the nonminor is living independently in a
6 supervised placement, as described in subdivision (w) of Section
7 11400, and that both the youth and the agency responsible for the
8 foster care placement have signed a mutual agreement, as defined
9 in subdivision (u) of Section 11400, if the youth is capable of
10 making an informed agreement, that documents the continued need
11 for supervised out-of-home placement, and the nonminor's and
12 social worker's or probation officer's agreement to work together
13 to facilitate implementation of the mutually developed supervised
14 placement agreement and transitional independent living case plan.

15 (e) Eligibility for aid under this section shall not terminate until
16 the nonminor dependent attains the age criteria, as set forth in
17 subdivision (a), but aid may be suspended when the nonminor
18 dependent no longer resides in an eligible facility, as described in
19 Section 11402, or is otherwise not eligible for AFDC-FC benefits
20 under Section 11401, or terminated at the request of the nonminor,
21 or after a court terminates dependency jurisdiction pursuant to
22 Section 391, delinquency jurisdiction pursuant to Section 607.2,
23 or transition jurisdiction pursuant to Section 452. AFDC-FC
24 benefits to nonminor dependents, may be resumed at the request
25 of the nonminor by completing a voluntary reentry agreement
26 pursuant to subdivision (z) of Section 11400, before or after the
27 filing of a petition filed pursuant to subdivision (e) of Section 388
28 after a court terminates dependency or transitional jurisdiction
29 pursuant to Section 391, or delinquency jurisdiction pursuant to
30 Section 607.2. The county welfare or probation department or
31 Indian tribal entity that has entered into an agreement pursuant to
32 Section 10553.1 shall complete the voluntary reentry agreement
33 with the nonminor who agrees to satisfy the criteria of the
34 agreement, as described in subdivision (z) of Section 11400. The
35 county welfare department or tribal entity shall establish a new
36 child-only Title IV-E eligibility determination based on the
37 nonminor's completion of the voluntary reentry agreement pursuant
38 to Section 11401. The beginning date of aid for either federal or
39 state AFDC-FC for a reentering nonminor who is placed in foster
40 care is the date the voluntary reentry agreement is signed or the

1 nonminor is placed, whichever is later. The county welfare
2 department, county probation department, or tribal entity shall
3 provide a nonminor dependent who wishes to continue receiving
4 aid with the assistance necessary to meet and maintain eligibility.

5 (f) (1) The county having jurisdiction of the nonminor
6 dependent shall remain the county of payment under this section
7 regardless of the youth's physical residence. Nonminor former
8 dependents receiving aid pursuant to subdivision (e) of Section
9 11405 shall be paid by their county of residence. Counties may
10 develop courtesy supervision agreements to provide case
11 management and independent living services by the county of
12 residence pursuant to the nonminor dependent's transitional
13 independent living case plan. Placements made out of state are
14 subject to the applicable requirements of the Interstate Compact
15 on Placement of Children, pursuant to Part 5 (commencing with
16 Section 7900) of Division 12 of the Family Code.

17 (2) The county welfare department, county probation
18 department, or tribal entity shall notify all foster youth who attain
19 16 years of age and are under the jurisdiction of that county or
20 tribe, including those receiving Kin-GAP, and AAP, of the
21 existence of the aid prescribed by this section.

22 (3) The department shall seek any waiver to amend its Title
23 IV-E State Plan with the Secretary of the United States Department
24 of Health and Human Services necessary to implement this section.

25 (g) (1) Subject to paragraph (3), a county shall pay the
26 nonfederal share of the cost of extending aid pursuant to this
27 section to eligible nonminor dependents who have reached 18
28 years of age and who are under the jurisdiction of the county,
29 including AFDC-FC payments pursuant to Section 11401, aid
30 pursuant to Kin-GAP under Article 4.7 (commencing with Section
31 11385), adoption assistance payments as specified in Chapter 2.1
32 (commencing with Section 16115) of Part 4, and aid pursuant to
33 Section 11405 for nonminor dependents who are residing in the
34 county as provided in paragraph (1) of subdivision (f). A county
35 shall contribute to the CalWORKs payments pursuant to Section
36 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
37 with Section 11360) at the statutory sharing ratios in effect on
38 January 1, 2012.

39 (2) Subject to paragraph (3), a county shall pay the nonfederal
40 share of the cost of providing permanent placement services

1 pursuant to subdivision (c) of Section 16508 and administering
 2 the Aid to Families with Dependent Children Foster Care program
 3 pursuant to Section 15204.9. For purposes of budgeting, the
 4 department shall use a standard for the permanent placement
 5 services that is equal to the midpoint between the budgeting
 6 standards for family maintenance services and family reunification
 7 services.

8 (3) (A) (i) Notwithstanding any other provision of law, a
 9 county’s required total contribution pursuant to paragraphs (1) and
 10 (2), excluding costs incurred pursuant to Section 10103.5, shall
 11 not exceed the amount of savings in Kin-GAP assistance grant
 12 expenditures realized by the county from the receipt of federal
 13 funds due to the implementation of Article 4.7 (commencing with
 14 Section 11385), and the amount of funding specifically included
 15 in the Protective Services Subaccount within the Support Services
 16 Account within the Local Revenue Fund 2011, plus any associated
 17 growth funding from the Support Services Growth Subaccount
 18 within the Sales and Use Tax Growth Account to pay the costs of
 19 extending aid pursuant to this section.

20 (ii) A county, at its own discretion, may expend additional funds
 21 beyond the amounts identified in clause (i). These additional
 22 amounts shall not be included in any cost and savings calculations
 23 or comparisons performed pursuant to this section.

24 (B) Beginning in the 2011–12 fiscal year, and for each fiscal
 25 year thereafter, funding and expenditures for programs and
 26 activities under this section shall be in accordance with the
 27 requirements provided in Sections 30025 and 30026.5 of the
 28 Government Code. In addition, the following are available to the
 29 counties for the purpose of funding costs pursuant to this section:

30 (i) The savings in Kin-GAP assistance grant expenditures
 31 realized from the receipt of federal funds due to the implementation
 32 of Article 4.7 (commencing with Section 11385).

33 (ii) The savings realized from the change in federal funding for
 34 adoption assistance resulting from the enactment of Public Law
 35 110-351 and consistent with subdivision (d) of Section 16118.

36 (4) (A) The limit on the county’s total contribution pursuant to
 37 paragraph (3) shall be assessed by the State Department of Social
 38 Services, in conjunction with the California State Association of
 39 Counties, in 2015–16, to determine if it shall be removed. The
 40 assessment of the need for the limit shall be based on a

1 determination on a statewide basis of whether the actual county
2 costs of providing extended care pursuant to this section, excluding
3 costs incurred pursuant to Section 10103.5, are fully funded by
4 the amount of savings in Kin-GAP assistance grant expenditures
5 realized by the counties from the receipt of federal funds due to
6 the implementation of Article 4.7 (commencing with Section
7 11385) and the amount of funding specifically included in the
8 Protective Services Subaccount within the Support Services
9 Account within the Local Revenue Fund 2011 plus any associated
10 growth funding from the Support Services Growth Subaccount
11 within the Sales and Use Tax Growth Account to pay the costs of
12 extending aid pursuant to this section.

13 (B) If the assessment pursuant to subparagraph (A) shows that
14 the statewide total costs of extending aid pursuant to this section,
15 excluding costs incurred pursuant to Section 10103.5, are fully
16 funded by the amount of savings in Kin-GAP assistance grant
17 expenditures realized by the counties from the receipt of federal
18 funds due to the implementation of Article 4.7 (commencing with
19 Section 11385) and the amount of funding specifically included
20 in the Protective Services Subaccount within the Support Services
21 Account within the Local Revenue Fund 2011 plus any associated
22 growth funding from the Support Services Growth Subaccount
23 within the Sales and Use Tax Growth Account to pay the costs of
24 extending aid pursuant to this section, the Department of Finance
25 shall certify that fact, in writing, and shall post the certification on
26 its Internet Web site, at which time subparagraph (A) of paragraph
27 (3) shall no longer be implemented.

28 (h) It is the intent of the Legislature that no county currently
29 participating in the Child Welfare Demonstration Capped
30 Allocation Project be adversely impacted by the department's
31 exercise of its option to extend foster care benefits pursuant to
32 Section 673(a)(4) and Section 675(8) of Title 42 of the United
33 States Code in the federal Social Security Act, as contained in the
34 federal Fostering Connections to Success and Increasing Adoptions
35 Act of 2008 (Public Law 110-351). Therefore, the department shall
36 negotiate with the United States Department of Health and Human
37 Services on behalf of those counties that are currently participating
38 in the demonstration project to ensure that those counties receive
39 reimbursement for these new programs outside of the provisions
40 of those counties' waiver under Subtitle IV-E (commencing with

1 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
2 670 et seq.).

3 (i) The department, on or before July 1, 2013, shall develop
4 regulations to implement this section in consultation with
5 concerned stakeholders, including, but not limited to,
6 representatives of the Legislature, the County Welfare Directors
7 Association, the Chief Probation Officers of California, the Judicial
8 Council, representatives of Indian tribes, the California Youth
9 Connection, former foster youth, child advocacy organizations,
10 labor organizations, juvenile justice advocacy organizations, foster
11 caregiver organizations, and researchers. In the development of
12 these regulations, the department shall consider its Manual of
13 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
14 and 917, as guidelines for developing regulations that are
15 appropriate for young adults who can exercise incremental
16 responsibility concurrently with their growth and development.
17 The department, in its consultation with stakeholders, shall take
18 into consideration the impact to the Automated Child Welfare
19 Services Case Management Services (CWS-CMS) and required
20 modifications needed to accommodate eligibility determination
21 under this section, benefit issuance, case management across
22 counties, and recognition of the legal status of nonminor
23 dependents as adults, as well as changes to data tracking and
24 reporting requirements as required by the Child Welfare System
25 Improvement and Accountability Act as specified in Section
26 10601.2, and federal outcome measures as required by the federal
27 John H. Chafee Foster Care Independence Program (42 U.S.C.
28 Sec. 677(f)). In addition, the department, in its consultation with
29 stakeholders, shall define the supervised independent living setting
30 which shall include, but not be limited to, apartment living, room
31 and board arrangements, college or university dormitories, and
32 shared roommate settings, and define how those settings meet
33 health and safety standards suitable for nonminors. The department,
34 in its consultation with stakeholders, shall define the six-month
35 certification of the conditions of eligibility pursuant to subdivision
36 (b) to be consistent with the flexibility provided by federal policy
37 guidance, to ensure that there are ample supports for a nonminor
38 to achieve the goals of his or her transition independent living case
39 plan. The department, in its consultation with stakeholders, shall
40 ensure that notices of action and other forms created to inform the

1 nonminor of due process rights and how to access them shall be
2 developed, using language consistent with the special needs of the
3 nonminor dependent population.

4 (j) Notwithstanding the Administrative Procedure Act, Chapter
5 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
6 Title 2 of the Government Code, the department shall prepare for
7 implementation of the applicable provisions of this section by
8 publishing, after consultation with the stakeholders listed in
9 subdivision (i), all-county letters or similar instructions from the
10 director by October 1, 2011, to be effective January 1, 2012.
11 Emergency regulations to implement the applicable provisions of
12 this act may be adopted by the director in accordance with the
13 Administrative Procedure Act. The initial adoption of the
14 emergency regulations and one readoption of the emergency
15 regulations shall be deemed to be an emergency and necessary for
16 the immediate preservation of the public peace, health, safety, or
17 general welfare. Initial emergency regulations and the first
18 readoption of those emergency regulations shall be exempt from
19 review by the Office of Administrative Law. The emergency
20 regulations authorized by this section shall be submitted to the
21 Office of Administrative Law for filing with the Secretary of State
22 and shall remain in effect for no more than 180 days.

23 (k) This section shall become operative on January 1, 2012.

24 ~~SEC. 48.~~

25 *SEC. 44.* Section 11403.2 of the Welfare and Institutions Code
26 is amended to read:

27 11403.2. (a) The following persons shall be eligible for
28 transitional housing provided pursuant to Article 4 (commencing
29 with Section 16522) of Chapter 5 of Part 4:

30 (1) Any foster child at least 16 years of age and not more than
31 18 years of age, and, on or after January 1, 2012, any nonminor
32 dependent, as defined in subdivision (v) of Section 11400, who is
33 eligible for AFDC-FC benefits as described in Section 11401. A
34 foster child under 18 years of age shall be eligible for placement
35 in the program certified as a “Transitional Housing Placement
36 Program,” pursuant to paragraph (1) of subdivision (a) of Section
37 16522.2. A nonminor dependent shall be eligible for placement in
38 the program certified as a “Transitional Housing Placement-Plus
39 Foster Care Program” pursuant to paragraph (2) of subdivision (a)
40 of Section 16522.2.

1 (2) Any former foster youth at least 18 years of age and not
2 more than 24 years of age who has exited from the foster care
3 system on or after his or her 18th birthday and elects to participate
4 in Transitional Housing Program-Plus, as defined in subdivision
5 (s) of Section 11400, provided he or she has not received services
6 under this paragraph for more than a total of 24 months, whether
7 or not consecutive. If the person participating in a Transitional
8 Housing Program-Plus is not receiving aid under Section 11403.1,
9 he or she, as a condition of participation, shall enter into, and
10 execute the provisions of, a transitional independent living plan
11 that shall be mutually agreed upon, and annually reviewed, by the
12 former foster youth and the applicable county welfare or probation
13 department or independent living program coordinator. The person
14 participating under this paragraph shall inform the county of any
15 changes to conditions specified in the agreed-upon plan that affect
16 eligibility, including changes in address, living circumstances, and
17 the educational or training program.

18 (b) Payment on behalf of an eligible person receiving transitional
19 housing services pursuant to paragraph (1) of subdivision (a) shall
20 be made to the transitional housing placement provider pursuant
21 to the conditions and limitations set forth in Section 11403.3.
22 Notwithstanding Section 11403.3, the department, in consultation
23 with concerned stakeholders, including, but not limited to,
24 representatives of the Legislature, the County Welfare Directors
25 Association, the Chief Probation Officers of California, the Judicial
26 Council, representatives of Indian tribes, the California Youth
27 Connection, former foster youth, child advocacy organizations,
28 labor organizations, juvenile justice advocacy organizations, foster
29 caregiver organizations, researchers, and transitional housing
30 placement providers, shall convene a workgroup to establish a new
31 rate structure for the Title IV-E funded THP-Plus-Foster Care
32 placement option for nonminor dependents. The workgroup shall
33 also consider application of this new rate structure to the
34 Transitional Housing Program-Plus, as described in paragraph (2)
35 of subdivision (a) of Section 11403.3. In developing the new rate
36 structure pursuant to this subdivision, the department shall consider
37 the average rates in effect and being paid by counties to current
38 transitional housing placement providers.

39 *SEC. 45. Section 11405 of the Welfare and Institutions Code*
40 *is amended to read:*

1 11405. (a) *Except for nonminors described in paragraph (2)*
2 *of subdivision (e)*, AFDC-FC benefits shall be paid to an otherwise
3 eligible child living with a nonrelated legal guardian, provided
4 that the legal guardian cooperates with the county welfare
5 department in all of the following:

- 6 (1) Developing a written assessment of the child's needs.
- 7 (2) Updating the assessment no less frequently than once every
8 six months.
- 9 (3) Carrying out the case plan developed by the county.

10 (b) ~~When~~ *Except for nonminors described in paragraph (2) of*
11 *subdivision (e)*, when AFDC-FC is applied for on behalf of a child
12 living with a nonrelated legal guardian the county welfare
13 department shall do all of the following:

- 14 (1) Develop a written assessment of the child's needs.
- 15 (2) Update those assessments no less frequently than once every
16 six months.
- 17 (3) Develop a case plan that specifies how the problems
18 identified in the assessment are to be addressed.
- 19 (4) Make visits to the child as often as appropriate, but in no
20 event less often than once every six months.

21 (c) Where the child is a parent and has a child living with him
22 or her in the same eligible facility, the assessment required by
23 paragraph (1) of subdivision (a) shall include the needs of his or
24 her child.

25 (d) Nonrelated legal guardians of eligible children who are in
26 receipt of AFDC-FC payments described in this section shall be
27 exempt from the requirement to register with the Statewide
28 Registry of Private Professional Guardians pursuant to Sections
29 2850 and 2851 of the Probate Code.

30 (e) (1) On and after January 1, 2012, a nonminor youth whose
31 nonrelated guardianship was ordered in juvenile court pursuant to
32 Section 360 or 366.26, and whose dependency was dismissed,
33 shall remain eligible for AFDC-FC benefits until the youth attains
34 19 years of age, effective January 1, 2013, until the youth attains
35 20 years of age, and effective January 1, 2014, until the youth
36 attains 21 years of age, provided that the youth enters into a mutual
37 agreement with the agency responsible for his or her guardianship,
38 and the youth is meeting the conditions of eligibility, as described
39 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
40 11403.

1 (2) A nonminor former dependent or ward as defined in
2 paragraph (2) of subdivision (aa) of Section 11400 shall be eligible
3 for benefits under this section until the youth attains 21 years of
4 age if all of the following conditions are met:

5 (A) The nonminor former dependent or ward attained 18 years
6 of age while in receipt of Kin-GAP benefits pursuant to Article 4.7
7 (commencing with Section 11385).

8 (B) The nonminor's relationship to the kinship guardian is
9 defined in paragraph (2), (3), or (4) of subdivision (c) of Section
10 11391.

11 (C) The nonminor who was under 16 years of age at the time
12 the Kin-GAP negotiated agreement payments commenced.

13 (D) The guardian continues to be responsible for the support
14 of the nonminor.

15 (E) The nonminor otherwise is meeting the conditions of
16 eligibility, as described in paragraphs (1) to (5), inclusive, of
17 subdivision (b) of Section 11403.

18 (f) On or after January 1, 2012, a child whose nonrelated
19 guardianship was ordered in probate court pursuant Article 2
20 (commencing with Section 1510) of Chapter 1 of Part 2 of Division
21 4 of the Probate Code, who is attending high school or the
22 equivalent level of vocational or technical training on a full-time
23 basis, or who is in the process of pursuing a high school
24 equivalency certificate prior to his or her 18th birthday may
25 continue to receive aid following his or her 18th birthday as long
26 as the child continues to reside in the guardian's home, remains
27 otherwise eligible for AFDC-FC benefits and continues to attend
28 high school or the equivalent level of vocational or technical
29 training on a full-time basis, or continues to pursue a high school
30 equivalency certificate, and the child may reasonably be expected
31 to complete the educational or training program or to receive a
32 high school equivalency certificate, before his or her 19th birthday.
33 Aid shall be provided to an individual pursuant to this section
34 provided that both the individual and the agency responsible for
35 the foster care placement have signed a mutual agreement, if the
36 individual is capable of making an informed agreement,
37 documenting the continued need for out-of-home placement.

38 (g) (1) For cases in which a guardianship was established on
39 or before June 30, 2011, or the date specified in a final order, for
40 which the time for appeal has passed, issued by a court of

1 competent jurisdiction in California State Foster Parent
2 Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct.
3 No C 07-05086 WHA), whichever is earlier, the AFDC-FC
4 payment described in this section shall be the foster family home
5 rate structure in effect prior to the effective date specified in the
6 order described in this paragraph.

7 (2) For cases in which guardianship has been established on or
8 after July 1, 2011, or the date specified in the order described in
9 paragraph (1), whichever is earlier, the AFDC-FC payments
10 described in this section shall be the basic foster family home rate
11 set forth in paragraph (1) of subdivision (g) of Section 11461.

12 (3) Beginning with the 2011–12 fiscal year, the AFDC-FC
13 payments identified in this subdivision shall be adjusted annually
14 by the percentage change in the California Necessities Index rate
15 as set forth in paragraph (2) of subdivision (g) of Section 11461.

16 (h) In addition to the AFDC-FC rate paid, all of the following
17 also shall be paid:

18 (1) A specialized care increment, if applicable, as set forth in
19 subdivision (e) of Section 11461.

20 (2) A clothing allowance, as set forth in subdivision (f) of
21 Section 11461.

22 (3) For a child eligible for an AFDC-FC payment who is a teen
23 parent, the rate shall include the two hundred dollar (\$200) monthly
24 payment made to the relative caregiver in a whole family foster
25 home pursuant to paragraph (3) of subdivision (d) of Section
26 11465.

27 ~~SEC. 49.~~

28 *SEC. 46.* Section 16002.5 of the Welfare and Institutions Code
29 is amended to read:

30 16002.5. It is the intent of the Legislature to maintain the
31 continuity of the family unit and to support and preserve families
32 headed by minor parents and nonminor dependent parents who
33 are themselves under the jurisdiction of the juvenile court by
34 ensuring that minor parents and their children are placed together
35 in as family-like a setting as possible, unless it has been determined
36 that placement together poses a risk to the child.

37 (a) To the greatest extent possible, dependent minor parents and
38 their children living in foster care shall be provided with access
39 to existing services for which they may be eligible, that are
40 specifically targeted at supporting, maintaining, and developing

1 both the parent-child bond and the minor parent's ability to provide
2 a permanent and safe home for the child. Examples of these
3 services may include, but shall not be limited to, child care,
4 parenting classes, child development classes, and frequent
5 visitation.

6 (b) The minor parent shall be given the ability to attend school,
7 complete homework, and participate in age and developmentally
8 appropriate activities unrelated to and separate from parenting.

9 (c) Foster care placements for minor parents and their children
10 shall demonstrate a willingness and ability to provide support and
11 assistance to dependent minor parents and their children.

12 (d) Contact between the child, the custodial parent, and the
13 noncustodial parent shall be facilitated when that contact is found
14 to be in the best interest of the child.

15 (e) For the purpose of this section, "child" refers to the child
16 born to the minor parent.

17 (f) For the purpose of this section, "minor parent" refers to a
18 dependent child who is also a parent.

19 (g) For the purpose of this section, "nonminor dependent parent"
20 refers to a nonminor as described in subdivision (v) of Section
21 11400 who also is a parent.

22 ~~SEC. 50.~~

23 *SEC. 47.* Section 16010 of the Welfare and Institutions Code
24 is amended to read:

25 16010. (a) When a child is placed in foster care, the case plan
26 for each child recommended pursuant to Section 358.1 shall include
27 a summary of the health and education information or records,
28 including mental health information or records, of the child. The
29 summary may be maintained in the form of a health and education
30 passport, or a comparable format designed by the child protective
31 agency. The health and education summary shall include, but not
32 be limited to, the names and addresses of the child's health, dental,
33 and education providers, the child's grade level performance, the
34 child's school record, assurances that the child's placement in
35 foster care takes into account proximity to the school in which the
36 child is enrolled at the time of placement, the number of school
37 transfers the child has already experienced, the child's educational
38 progress, as demonstrated by factors, including, but not limited
39 to, academic proficiency scores, credits earned toward graduation,
40 a record of the child's immunizations and allergies, the child's

1 known medical problems, the child’s current medications, past
2 health problems and hospitalizations, a record of the child’s
3 relevant mental health history, the child’s known mental health
4 condition and medications, and any other relevant mental health,
5 dental, health, and education information concerning the child
6 determined to be appropriate by the Director of Social Services.
7 If any other law imposes more stringent information requirements,
8 then that section shall prevail.

9 (b) Additionally, a court report or assessment required pursuant
10 to subdivision (g) of Section 361.5, Section 366.1, subdivision (d)
11 of Section 366.21, or subdivision (b) of Section 366.22 shall
12 include a copy of the current health and education summary
13 described in subdivision (a). With respect to a nonminor dependent,
14 as described in subdivision (v) of Section 11400, a copy of the
15 current health and education summary shall be included in the
16 court report only if and when the nonminor dependent consents in
17 writing to its inclusion.

18 (c) As soon as possible, but not later than 30 days after initial
19 placement of a child into foster care, the child protective agency
20 shall provide the caregiver with the child’s current health and
21 education summary as described in subdivision (a). For each
22 subsequent placement of a child or nonminor dependent, the child
23 protective agency shall provide the caregiver with a current
24 summary as described in subdivision (a) within 48 hours of the
25 placement. With respect to a nonminor dependent, as described in
26 subdivision (v) of Section 11400, the social worker or probation
27 officer shall advise the young adult of the social worker’s or
28 probation officer’s obligation to provide the health and education
29 summary to the new caregiver and the court, and shall discuss with
30 the youth the benefits and liabilities of sharing that information.

31 (d) (1) Notwithstanding Section 827 or any other law, the child
32 protective agency may disclose any information described in this
33 section to a prospective caregiver or caregivers prior to placement
34 of a child if all of the following requirements are met:

35 (A) The child protective agency intends to place the child with
36 the prospective caregiver or caregivers.

37 (B) The prospective caregiver or caregivers are willing to
38 become the adoptive parent or parents of the child.

39 (C) The prospective caregiver or caregivers have an approved
40 adoption assessment or home study, a foster family home license,

1 certification by a licensed foster family agency, or approval
2 pursuant to the requirements in Sections 361.3 and 361.4.

3 (2) In addition to the information required to be provided under
4 this section, the child protective agency may disclose to the
5 prospective caregiver specified in paragraph (1), placement history
6 or underlying source documents that are provided to adoptive
7 parents pursuant to subdivisions (a) and (b) of Section 8706 of the
8 Family Code.

9 (e) The child's caregiver shall be responsible for obtaining and
10 maintaining accurate and thorough information from physicians
11 and educators for the child's summary as described in subdivision
12 (a) during the time that the child is in the care of the caregiver. On
13 each required visit, the child protective agency or its designee
14 family foster agency shall inquire of the caregiver whether there
15 is any new information that should be added to the child's summary
16 as described in subdivision (a). The child protective agency shall
17 update the summary with the information as appropriate, but not
18 later than the next court date or within 48 hours of a change in
19 placement. The child protective agency or its designee family
20 foster agency shall take all necessary steps to assist the caregiver
21 in obtaining relevant health and education information for the
22 child's health and education summary as described in subdivision
23 (a). The caregiver of a nonminor dependent, as described in
24 subdivision (v) of Section 11400, is not responsible for obtaining
25 and maintaining the nonminor dependent's health and educational
26 information, but may assist the nonminor dependent with any
27 recordkeeping that the nonminor requests of the caregiver.

28 (f) At the initial hearing, the court shall direct each parent to
29 provide to the child protective agency complete medical, dental,
30 mental health, and educational information, and medical
31 background, of the child and of the child's mother and the child's
32 biological father if known. The Judicial Council shall create a form
33 for the purpose of obtaining health and education information from
34 the child's parents or guardians at the initial hearing. The court
35 shall determine at the hearing held pursuant to Section 358 whether
36 the medical, dental, mental health, and educational information
37 has been provided to the child protective agency.

38 ~~SEC. 51.~~

39 *SEC. 48.* Section 16120 of the Welfare and Institutions Code
40 is amended to read:

1 16120. A child shall be eligible for Adoption Assistance
2 Program benefits if all of the conditions specified in subdivisions
3 (a) to (l), inclusive, are met or if the conditions specified in
4 subdivision (m) are met.

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, or, in the case of a
9 tribal customary adoption, if the court has given full faith and
10 credit to a tribal customary adoption order as provided for pursuant
11 to paragraph (2) of subdivision (e) of Section 366.26, or, in the
12 case of a nonminor dependent the court has dismissed dependency
13 or transitional jurisdiction subsequent to the approval of the
14 nonminor dependent, adoption petition pursuant to subdivision (f)
15 of Section 366.31.

16 (b) The child has at least one of the following characteristics
17 that are barriers to his or her adoption:

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

24 (2) Adoptive placement without financial assistance is unlikely
25 because the child has a mental, physical, emotional, or medical
26 disability that has been certified by a licensed professional
27 competent to make an assessment and operating within the scope
28 of his or her profession. This paragraph shall also apply to children
29 with a developmental disability, as defined in subdivision (a) of
30 Section 4512, including those determined to require out-of-home
31 nonmedical care, as described in Section 11464.

32 (c) The need for an adoption subsidy is evidenced by an
33 unsuccessful search for an adoptive home to take the child without
34 financial assistance, as documented in the case file of the
35 prospective adoptive child. The requirement for this search shall
36 be waived when it would be against the best interest of the child
37 because of the existence of significant emotional ties with
38 prospective adoptive parents while in the care of these persons as
39 a foster child.

40 (d) The child satisfies any of the following criteria:

1 (1) He or she is under 18 years of age.

2 (2) He or she is under 21 years of age and has a mental or
3 physical handicap that warrants the continuation of assistance.

4 (3) Effective January 1, 2012, he or she is under 19 years of
5 age, effective January 1, 2013, he or she is under 20 years of age,
6 and effective January 1, 2014, he or she is under 21 years of age
7 and as described in Section 10103.5, and has attained 16 years of
8 age before the adoption assistance agreement became effective,
9 and one or more of the conditions specified in paragraphs (1) to
10 (5), inclusive, of subdivision (b) of Section 11403 applies.

11 (e) The adoptive family is responsible for the child pursuant to
12 the terms of an adoptive placement agreement or a final decree of
13 adoption and has signed an adoption assistance agreement.

14 (f) The adoptive family is legally responsible for the support of
15 the child and the child is receiving support from the adoptive
16 parent.

17 (g) The department or the county responsible for determining
18 the child's Adoption Assistance Program eligibility status and for
19 providing financial aid, and the prospective adoptive parent, prior
20 to or at the time the adoption decree is issued by the court, have
21 signed an adoption assistance agreement that stipulates the need
22 for, and the amount of, Adoption Assistance Program benefits.

23 (h) The prospective adoptive parent or any adult living in the
24 prospective adoptive home has completed the criminal background
25 check requirements pursuant to Section 671(a)(20)(A) and (C) of
26 Title 42 of the United States Code.

27 (i) To be eligible for state funding, the child is the subject of an
28 agency adoption, as defined in Section 8506 of the Family Code,
29 and was any of the following:

30 (1) Under the supervision of a county welfare department as
31 the subject of a legal guardianship or juvenile court dependency.

32 (2) Relinquished for adoption to a licensed California private
33 or public adoption agency, or another public agency operating a
34 Title IV-E program on behalf of the state, and would have
35 otherwise been at risk of dependency as certified by the responsible
36 public child welfare agency.

37 (3) Committed to the care of the department pursuant to Section
38 8805 or 8918 of the Family Code.

39 (4) The child is an Indian child and the subject of an order of
40 adoption based on tribal customary adoption of an Indian child,

1 as described in Section 366.24. Notwithstanding Section 8600.5
2 of the Family Code, for purposes of this subdivision a tribal
3 customary adoption shall be considered an agency adoption.

4 (j) To be eligible for federal funding, in the case of a child who
5 is not an applicable child for the federal fiscal year as defined in
6 subdivision (n), the child satisfies any of the following criteria:

7 (1) Prior to the finalization of an agency adoption, as defined
8 in Section 8506 of the Family Code, or an independent adoption,
9 as defined in Section 8524 of the Family Code, is filed, the child
10 has met the requirements to receive federal supplemental security
11 income benefits pursuant to Subchapter 16 (commencing with
12 Section 1381) of Chapter 7 of Title 42 of the United States Code,
13 as determined and documented by the federal Social Security
14 Administration.

15 (2) The child was removed from the home of a specified relative
16 and the child would have been AFDC eligible in the home of
17 removal according to Section 606(a) or 607 of Title 42 of the
18 United States Code, as those sections were in effect on July 16,
19 1996, in the month of the voluntary placement agreement or in the
20 month court proceedings are initiated to remove the child, resulting
21 in a judicial determination that continuation in the home would be
22 contrary to the child's welfare. The child must have been living
23 with the specified relative from whom he or she was removed
24 within six months of the month the voluntary placement agreement
25 was signed or the petition to remove was filed.

26 (3) The child was voluntarily relinquished to a licensed public
27 or private adoption agency, or another public agency operating a
28 Title IV-E program on behalf of the state, and there is a petition
29 to the court to remove the child from the home within six months
30 of the time the child lived with a specified relative and a subsequent
31 judicial determination that remaining in the home would be
32 contrary to the child's welfare.

33 (4) Title IV-E foster care maintenance was paid on behalf of
34 the child's minor parent and covered the cost of the minor parent's
35 child while the child was in the foster family home or child care
36 institution with the minor parent.

37 (5) The child is an Indian child and the subject of an order of
38 adoption based on tribal customary adoption of an Indian child,
39 as described in Section 366.24.

1 (k) To be eligible for federal funding, in the case of a child who
2 is an applicable child for the federal fiscal year, as defined in
3 subdivision (n), the child meets any of the following criteria:

4 (1) At the time of initiation of adoptive proceedings was in the
5 care of a public or licensed private child placement agency or
6 Indian tribal organization pursuant to either of the following:

7 (A) An involuntary removal of the child from the home in
8 accordance with a judicial determination to the effect that
9 continuation in the home would be contrary to the welfare of the
10 child.

11 (B) A voluntary placement agreement or a voluntary
12 relinquishment.

13 (2) He or she meets all medical or disability requirements of
14 Title XVI with respect to eligibility for supplemental security
15 income benefits.

16 (3) He or she was residing in a foster family home or a child
17 care institution with the child's minor parent, and the child's minor
18 parent was in the foster family home or child care institution
19 pursuant to either of the following:

20 (A) An involuntary removal of the child from the home in
21 accordance with a judicial determination to the effect that
22 continuation in the home would be contrary to the welfare of the
23 child.

24 (B) A voluntary placement agreement or voluntary
25 relinquishment.

26 (4) The child is an Indian child and the subject of an order of
27 adoption based on tribal customary adoption of an Indian child,
28 as described in Section 366.24.

29 (5) *The nonminor dependent, as described in subdivision (v) of*
30 *Section 11400, is the subject of an adoption pursuant to subdivision*
31 *(f) of Section 366.31.*

32 (l) The child is a citizen of the United States or a qualified alien
33 as defined in Section 1641 of Title 8 of the United States Code. If
34 the child is a qualified alien who entered the United States on or
35 after August 22, 1996, and is placed with an unqualified alien, the
36 child must meet the five-year residency requirement pursuant to
37 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
38 the child is a member of one of the excepted groups pursuant to
39 Section 1612(b) of Title 8 of the United States Code.

1 (m) A child shall be eligible for Adoption Assistance Program
2 benefits if the following conditions are met:

3 (1) The child received Adoption Assistance Program benefits
4 with respect to a prior adoption and the child is again available for
5 adoption because the prior adoption was dissolved and the parental
6 rights of the adoptive parents were terminated or because the
7 child's adoptive parents died and the child meets the special needs
8 criteria described in subdivisions (a) to (c), inclusive.

9 (2) To receive federal funding, the citizenship requirements in
10 subdivision (l).

11 (n) (1) Except as provided in this subdivision, "applicable child"
12 means a child for whom an adoption assistance agreement is
13 entered into under this section during any federal fiscal year
14 described in this subdivision if the child attained the applicable
15 age for that federal fiscal year before the end of that federal fiscal
16 year.

17 (A) For federal fiscal year 2010, the applicable age is 16 years.

18 (B) For federal fiscal year 2011, the applicable age is 14 years.

19 (C) For federal fiscal year 2012, the applicable age is 12 years.

20 (D) For federal fiscal year 2013, the applicable age is 10 years.

21 (E) For federal fiscal year 2014, the applicable age is eight years.

22 (F) For federal fiscal year 2015, the applicable age is six years.

23 (G) For federal fiscal year 2016, the applicable age is four years.

24 (H) For federal fiscal year 2017, the applicable age is two years.

25 (I) For federal fiscal year 2018 and thereafter, any age.

26 (2) Beginning with the 2010 federal fiscal year, the term
27 "applicable child" shall include a child of any age on the date on
28 which an adoption assistance agreement is entered into on behalf
29 of the child under this section if the child meets both of the
30 following criteria:

31 (A) He or she has been in foster care under the responsibility
32 of the state for at least 60 consecutive months.

33 (B) He or she meets the requirements of subdivision (k).

34 (3) Beginning with the 2010 federal fiscal year, an applicable
35 child shall include a child of any age on the date that an adoption
36 assistance agreement is entered into on behalf of the child under
37 this section, without regard to whether the child is described in
38 paragraph (2), if the child meets all of the following criteria:

39 (A) He or she is a sibling of a child who is an applicable child
40 for the federal fiscal year, under subdivision (n) or paragraph (2).

1 (B) He or she is to be placed in the same adoption placement
2 as an “applicable child” for the federal fiscal year who is their
3 sibling.

4 (C) He or she meets the requirements of subdivision (k).

5 ~~SEC. 52.~~

6 *SEC. 49.* Section 16120.1 of the Welfare and Institutions Code
7 is amended to read:

8 16120.1. Upon the authorization of the department or, where
9 appropriate, the county responsible for determining the child’s or
10 nonminor dependent’s Adoption Assistance Program eligibility
11 status and for providing financial aid, the responsible county shall
12 directly reimburse eligible individuals for reasonable nonrecurring
13 expenses, as defined by the department, incurred as a result of the
14 adoption of a special needs child, as defined in subdivisions (a) to
15 (c), inclusive, and subdivision (l), of Section 16120.
16 Reimbursements shall conform to the eligibility criteria and
17 claiming procedures established by the department and shall be
18 subject to the following conditions:

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

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

30 (c) Reimbursement for nonrecurring expenses shall be limited
31 to costs incurred by or on behalf of an adoptive parent or adoptive
32 parents that are not reimbursed from other sources. No payments
33 shall be made under this section if the federal program for
34 reimbursement of nonrecurring expenses for the adoption of
35 children eligible for the Adoption Assistance Program pursuant to
36 Section 673 of Title 42 of the United States Code is terminated.

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

1 ~~SEC. 53.~~

2 *SEC. 50.* Section 16122 of the Welfare and Institutions Code
3 is amended to read:

4 16122. (a) It is the intent of the Legislature in enacting this
5 chapter to provide children or nonminor dependents who would
6 otherwise remain in long-term foster care with permanent adoptive
7 homes. It is also the intent of this Legislature to encourage private
8 adoption agencies to continue placing these children, and in so
9 doing, to achieve a substantial savings to the state in foster care
10 costs.

11 (b) From any funds appropriated for this purpose, the state shall
12 compensate private adoption agencies licensed pursuant to Chapter
13 3 (commencing with Section 1500) of Division 2 of the Health
14 and Safety Code for costs of placing for adoption children or
15 nonminor dependents eligible for Adoption Assistance Program
16 benefits pursuant to Section 16120.

17 These agencies shall be compensated for otherwise unreimbursed
18 costs for the placement of these children in an amount not to exceed
19 a total of three thousand five hundred dollars (\$3,500) per child
20 adopted. Half of the compensation shall be paid at the time the
21 adoptive placement agreement is signed. The remainder shall be
22 paid at the time the adoption petition is granted by the court.
23 Requests for compensation shall conform to claims procedures
24 established by the department. This section shall not be construed
25 to authorize reimbursement to private agencies for intercountry
26 adoption services.

27 (c) Effective July 1, 1999, the maximum amount of
28 reimbursement pursuant to subdivision (b) shall be five thousand
29 dollars (\$5,000).

30 (d) Effective February 1, 2008, the maximum amount of
31 reimbursement pursuant to subdivision (b) shall be ten thousand
32 dollars (\$10,000). This rate increase shall apply only to those cases
33 for which the adoptive home study approval occurred on or after
34 July 1, 2007.

35 ~~SEC. 54.~~

36 *SEC. 51.* Section 16123 of the Welfare and Institutions Code
37 is amended to read:

38 16123. The provisions of Section 16120, permitting the
39 payment of adoption assistance until a child attains 18 or 21 years
40 of age if the child has mental or physical handicaps, or effective

1 January 1, 2012, up to 21 years of age, if the child or nonminor
2 meets the criteria specified in paragraph (3) of subdivision (d) of
3 Section 16120, shall be effective as long as federal funds are
4 available under Title IV-E of the federal Social Security Act (Part
5 E (commencing with Section 670) of Subchapter 4 of Chapter 7
6 of Title 42 of the United States Code), and the state continues to
7 exercise its option to extend payments up to 21 years of age,
8 pursuant to Section 473(a)(4) of the federal Social Security Act
9 (42 U.S.C. Sec. 673(a)(4)). When those funds cease to be available,
10 the maximum length for payment of the Adoption Assistance
11 Program shall be five years except in instances in which there is
12 a continuing need, related to a chronic health condition of the child
13 which necessitated the initial financial assistance. On and after
14 October 1, 1992, the parent may petition the department or the
15 responsible county to continue financial assistance up to the age
16 of majority.

17 ~~SEC. 55.~~

18 *SEC. 52.* Section 16501 of the Welfare and Institutions Code
19 is amended to read:

20 16501. (a) As used in this chapter, “child welfare services”
21 means public social services which are directed toward the
22 accomplishment of any or all of the following purposes: protecting
23 and promoting the welfare of all children, including handicapped,
24 homeless, dependent, or neglected children; preventing or
25 remedying, or assisting in the solution of problems which may
26 result in, the neglect, abuse, exploitation, or delinquency of
27 children; preventing the unnecessary separation of children from
28 their families by identifying family problems, assisting families
29 in resolving their problems, and preventing breakup of the family
30 where the prevention of child removal is desirable and possible;
31 restoring to their families children who have been removed, by
32 the provision of services to the child and the families; identifying
33 children to be placed in suitable adoptive homes, in cases where
34 restoration to the biological family is not possible or appropriate;
35 and ensuring adequate care of children away from their homes, in
36 cases where the child cannot be returned home or cannot be placed
37 for adoption.

38 “Child welfare services” also means services provided on behalf
39 of children alleged to be the victims of child abuse, neglect, or
40 exploitation. The child welfare services provided on behalf of each

1 child represent a continuum of services, including emergency
2 response services, family preservation services, family maintenance
3 services, family reunification services, and permanent placement
4 services, including supportive transition services. The individual
5 child’s case plan is the guiding principle in the provision of these
6 services. The case plan shall be developed within a maximum of
7 60 days of the initial removal of the child or of the in-person
8 response required under subdivision (f) if the child has not been
9 removed from his or her home, or by the date of the dispositional
10 hearing pursuant to Section 358, whichever comes first.

11 (1) Child welfare services may include, but are not limited to,
12 a range of service-funded activities, including case management,
13 counseling, emergency shelter care, emergency in-home caretakers,
14 temporary in-home caretakers, respite care, therapeutic day
15 services, teaching and demonstrating homemakers, parenting
16 training, substance abuse testing, and transportation. These
17 service-funded activities shall be available to children and their
18 families in all phases of the child welfare program in accordance
19 with the child’s case plan and departmental regulations. Funding
20 for services is limited to the amount appropriated in the annual
21 Budget Act and other available county funds.

22 (2) Service-funded activities to be provided may be determined
23 by each county, based upon individual child and family needs as
24 reflected in the service plan.

25 (3) As used in this chapter, “emergency shelter care” means
26 emergency shelter provided to children who have been removed
27 pursuant to Section 300 from their parent or parents or their
28 guardian or guardians. The department may establish, by
29 regulation, the time periods for which emergency shelter care shall
30 be funded. For the purposes of this paragraph, “emergency shelter
31 care” may include “transitional shelter care facilities” as defined
32 in paragraph (11) of subdivision (a) of Section 1502 of the Health
33 and Safety Code.

34 (b) As used in this chapter, “respite care” means temporary care
35 for periods not to exceed 72 hours. This care may be provided to
36 the child’s parents or guardians. This care shall not be limited by
37 regulation to care over 24 hours. These services shall not be
38 provided for the purpose of routine, ongoing child care.

39 (c) The county shall provide child welfare services as needed
40 pursuant to an approved service plan and in accordance with

1 regulations promulgated, in consultation with the counties, by the
2 department. Counties may contract for service-funded activities
3 as defined in paragraph (1) of subdivision (a). Each county shall
4 use available private child welfare resources prior to developing
5 new county-operated resources when the private child welfare
6 resources are of at least equal quality and lesser or equal cost as
7 compared with county-operated resources. Counties shall not
8 contract for needs assessment, client eligibility determination, or
9 any other activity as specified by regulations of the State
10 Department of Social Services, except as specifically authorized
11 in Section 16100.

12 (d) Nothing in this chapter shall be construed to affect duties
13 which are delegated to probation officers pursuant to Sections 601
14 and 654.

15 (e) Any county may utilize volunteer individuals to supplement
16 professional child welfare services by providing ancillary support
17 services in accordance with regulations adopted by the State
18 Department of Social Services.

19 (f) As used in this chapter, emergency response services consist
20 of a response system providing in-person response, 24 hours a day,
21 seven days a week, to reports of abuse, neglect, or exploitation, as
22 required by Article 2.5 (commencing with Section 11164) of
23 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of
24 investigation pursuant to Section 11166 of the Penal Code and to
25 determine the necessity for providing initial intake services and
26 crisis intervention to maintain the child safely in his or her own
27 home or to protect the safety of the child. County welfare
28 departments shall respond to any report of imminent danger to a
29 child immediately and all other reports within 10 calendar days.
30 An in-person response is not required when the county welfare
31 department, based upon an evaluation of risk, determines that an
32 in-person response is not appropriate. This evaluation includes
33 collateral, contacts, a review of previous referrals, and other
34 relevant information, as indicated.

35 (g) As used in this chapter, family maintenance services are
36 activities designed to provide in-home protective services to
37 prevent or remedy neglect, abuse, or exploitation, for the purposes
38 of preventing separation of children from their families.

39 (h) As used in this chapter, family reunification services are
40 activities designed to provide time-limited foster care services to

1 prevent or remedy neglect, abuse, or exploitation, when the child
2 cannot safely remain at home, and needs temporary foster care,
3 while services are provided to reunite the family.

4 (i) As used in this chapter, permanent placement services are
5 activities designed to provide an alternate permanent family
6 structure for children who because of abuse, neglect, or exploitation
7 cannot safely remain at home and who are unlikely to ever return
8 home. These services shall be provided on behalf of children for
9 whom there has been a judicial determination of a permanent plan
10 for adoption, legal guardianship, or long-term foster care, and, as
11 needed, shall include supportive transition services to nonminor
12 dependents, as described in subdivision (v) of Section 11400.

13 (j) As used in this chapter, family preservation services include
14 those services specified in Section 16500.5 to avoid or limit
15 out-of-home placement of children, and may include those services
16 specified in that section to place children in the least restrictive
17 environment possible.

18 (k) (1) (A) In any county electing to implement this
19 subdivision, all county welfare department employees who have
20 frequent and routine contact with children shall, by February 1,
21 1997, and all welfare department employees who are expected to
22 have frequent and routine contact with children and who are hired
23 on or after January 1, 1996, and all such employees whose duties
24 change after January 1, 1996, to include frequent and routine
25 contact with children, shall, if the employees provide services to
26 children who are alleged victims of abuse, neglect, or exploitation,
27 sign a declaration under penalty of perjury regarding any prior
28 criminal conviction, and shall provide a set of fingerprints to the
29 county welfare director.

30 (B) The county welfare director shall secure from the
31 Department of Justice a criminal record to determine whether the
32 employee has ever been convicted of a crime other than a minor
33 traffic violation. The Department of Justice shall deliver the
34 criminal record to the county welfare director.

35 (C) If it is found that the employee has been convicted of a
36 crime, other than a minor traffic violation, the county welfare
37 director shall determine whether there is substantial and convincing
38 evidence to support a reasonable belief that the employee is of
39 good character so as to justify frequent and routine contact with
40 children.

1 (D) No exemption shall be granted pursuant to subparagraph
2 (C) if the person has been convicted of a sex offense against a
3 minor, or has been convicted of an offense specified in Section
4 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in
5 paragraph (1) of Section 273a of, or subdivision (a) or (b) of
6 Section 368 of, the Penal Code, or has been convicted of an offense
7 specified in subdivision (c) of Section 667.5 of the Penal Code.
8 The county welfare director shall suspend such a person from any
9 duties involving frequent and routine contact with children.

10 (E) Notwithstanding subparagraph (D), the county welfare
11 director may grant an exemption if the employee or prospective
12 employee, who was convicted of a crime against an individual
13 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5
14 of the Penal Code, has been rehabilitated as provided in Section
15 4852.03 of the Penal Code and has maintained the conduct required
16 in Section 4852.05 of the Penal Code for at least 10 years and has
17 the recommendation of the district attorney representing the
18 employee's or prospective employee's county of residence, or if
19 the employee or prospective employee has received a certificate
20 of rehabilitation pursuant to Chapter 3.5 (commencing with Section
21 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the
22 county welfare director may give the employee or prospective
23 employee an opportunity to explain the conviction and shall
24 consider that explanation in the evaluation of the criminal
25 conviction record.

26 (F) If no criminal record information has been recorded, the
27 county welfare director shall cause a statement of that fact to be
28 included in that person's personnel file.

29 (2) For purposes of this subdivision, a conviction means a plea
30 or verdict of guilty or a conviction following a plea of nolo
31 contendere. Any action which the county welfare director is
32 permitted to take following the establishment of a conviction may
33 be taken when the time for appeal has elapsed, or the judgment of
34 conviction has been affirmed on appeal or when an order granting
35 probation is made suspending the imposition of sentence,
36 notwithstanding a subsequent order pursuant to Sections 1203.4
37 and 1203.4a of the Penal Code permitting the person to withdraw
38 his or her plea of guilty and to enter a plea of not guilty, or setting
39 aside the verdict of guilty, or dismissing the accusation,
40 information, or indictment. For purposes of this subdivision, the

1 record of a conviction, or a copy thereof certified by the clerk of
2 the court or by a judge of the court in which the conviction
3 occurred, shall be conclusive evidence of the conviction.

4 ~~SEC. 56.~~

5 *SEC. 53.* Section 16501.1 of the Welfare and Institutions Code
6 is amended to read:

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

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

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

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

25 (3) Upon a determination pursuant to paragraph (1) of
26 subdivision (e) of Section 361.5 that reasonable services will be
27 offered to a parent who is incarcerated in a county jail or state
28 prison, the case plan shall include information, to the extent
29 possible, about a parent's incarceration in a county jail or the state
30 prison during the time that a minor child of that parent is involved
31 in dependency care.

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

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

1 (c) (1) If out-of-home placement is used to attain case plan
2 goals, the case plan shall include a description of the type of home
3 or institution in which the child is to be placed, and the reasons
4 for that placement decision. The decision regarding choice of
5 placement shall be based upon selection of a safe setting that is
6 the least restrictive or most family like and the most appropriate
7 setting that is available and in close proximity to the parent's home,
8 proximity to the child's school, and consistent with the selection
9 of the environment best suited to meet the child's special needs
10 and best interests. The selection shall consider, in order of priority,
11 placement with relatives, nonrelated extended family members,
12 tribal members, and foster family homes, certified homes of foster
13 family agencies, intensive treatment or multidimensional treatment
14 foster care homes, group care placements, such as group homes
15 and community treatment facilities, and residential treatment
16 pursuant to Section 7950 of the Family Code.

17 (2) If a group care placement is selected for a child, the case
18 plan shall indicate the needs of the child that necessitate this
19 placement, the plan for transitioning the child to a less restrictive
20 environment, and the projected timeline by which the child will
21 be transitioned to a less restrictive environment. This section of
22 the case plan shall be reviewed and updated at least semiannually.

23 (3) On or after January 1, 2012, for a nonminor dependent, as
24 defined in subdivision (v) of Section 11400, who is receiving
25 AFDC-FC benefits up to 21 years of age pursuant to Section 11403,
26 in addition to the above requirements, the selection of the
27 placement, including a supervised independent living placement,
28 as described in subdivision ~~(x)~~ (w) of Section 11400, shall also be
29 based upon the developmental needs of young adults by providing
30 opportunities to have incremental responsibilities that prepare a
31 nonminor dependent to transition to independent living. If
32 admission to, or continuation in, a group home placement is being
33 considered for a nonminor dependent, the group home placement
34 approval decision shall include a youth-driven, team-based case
35 planning process, as defined by the department, in consultation
36 with stakeholders. The case plan shall consider the full range of
37 placement options, and shall specify why admission to, or
38 continuation in, a group home placement is the best alternative
39 available at the time to meet the special needs or well-being of the
40 nonminor dependent, and how the placement will contribute to the

1 nonminor dependent’s transition to independent living. The case
2 plan shall specify the treatment strategies that will be used to
3 prepare the nonminor dependent for discharge to a less restrictive
4 and more family-like setting, including a target date for discharge
5 from the group home placement. The placement shall be reviewed
6 and updated on a regular, periodic basis to ensure that continuation
7 in the group home remains in the best interests of the nonminor
8 dependent and that progress is being made in achieving case plan
9 goals leading to independent living. The group home placement
10 planning process shall begin as soon as it becomes clear to the
11 county welfare department or probation office that a foster child
12 in group home placement is likely to remain in group home
13 placement on his or her 18th birthday, in order to expedite the
14 transition to a less restrictive and more family-like setting if he or
15 she becomes a nonminor dependent. The case planning process
16 shall include informing the youth of all of his or her options,
17 including, but not limited to, admission to or continuation in a
18 group home placement. Consideration for continuation of existing
19 group home placement for a nonminor dependent under 19 years
20 of age may include the need to stay in the same placement in order
21 to complete high school. After a nonminor dependent either
22 completes high school or attains his or her 19th birthday, whichever
23 is earlier, continuation in or admission to a group home is
24 prohibited unless the nonminor dependent satisfies the conditions
25 of paragraph (5) of subdivision (b) of Section 11403, and group
26 home placement functions as a short-term transition to the
27 appropriate system of care. Treatment services provided by the
28 group home placement to the nonminor dependent to alleviate or
29 ameliorate the medical condition, as described in paragraph (5) of
30 subdivision (b) of Section 11403, shall not constitute the sole basis
31 to disqualify a nonminor dependent from the group home
32 placement.

33 (4) In addition to the requirements of paragraphs (1) to (3),
34 inclusive, and taking into account other statutory considerations
35 regarding placement, the selection of the most appropriate home
36 that will meet the child’s special needs and best interests shall also
37 promote educational stability by taking into consideration
38 proximity to the child’s school of origin, and school attendance
39 area, the number of school transfers the child has previously
40 experienced, and the child’s school matriculation schedule, in

1 addition to other indicators of educational stability that the
2 Legislature hereby encourages the State Department of Social
3 Services and the State Department of Education to develop.

4 (d) A written case plan shall be completed within a maximum
5 of 60 days of the initial removal of the child or of the in-person
6 response required under subdivision (f) of Section 16501 if the
7 child has not been removed from his or her home, or by the date
8 of the dispositional hearing pursuant to Section 358, whichever
9 occurs first. The case plan shall be updated, as the service needs
10 of the child and family dictate. At a minimum, the case plan shall
11 be updated in conjunction with each status review hearing
12 conducted pursuant to Sections 364, 366, 366.3, and 366.31, and
13 the hearing conducted pursuant to Section 366.26, but no less
14 frequently than once every six months. Each updated case plan
15 shall include a description of the services that have been provided
16 to the child under the plan and an evaluation of the appropriateness
17 and effectiveness of those services.

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

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

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

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

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

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

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

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

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

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

35 (6) When out-of-home placement is made, the case plan shall
36 include provisions for the development and maintenance of sibling
37 relationships as specified in subdivisions (b), (c), and (d) of Section
38 16002. If appropriate, when siblings who are dependents of the
39 juvenile court are not placed together, the social worker for each
40 child, if different, shall communicate with each of the other social

1 workers and ensure that the child's siblings are informed of
2 significant life events that occur within their extended family.
3 Unless it has been determined that it is inappropriate in a particular
4 case to keep siblings informed of significant life events that occur
5 within the extended family, the social worker shall determine the
6 appropriate means and setting for disclosure of this information
7 to the child commensurate with the child's age and emotional
8 well-being. These significant life events shall include, but shall
9 not be limited to, the following:

10 (A) The death of an immediate relative.

11 (B) The birth of a sibling.

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

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

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

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

31 (B) An assurance that the placement agency has coordinated
32 with the person holding the right to make educational decisions
33 for the child and appropriate local educational agencies to ensure
34 that the child remains in the school in which the child is enrolled
35 at the time of placement or, if remaining in that school is not in
36 the best interests of the child, assurances by the placement agency
37 and the local educational agency to provide immediate and
38 appropriate enrollment in a new school and to provide all of the
39 child's educational records to the new school.

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

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

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

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

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

1 plan. Commencing January 1, 2012, for nonminor dependents, as
2 defined in subdivision (v) of Section 11400, who are receiving
3 AFDC-FC or CalWORKs assistance up to 21 years of age pursuant
4 to Section 11403, the transitional independent living case plan, as
5 set forth in subdivision (y) of Section 11400, shall be developed
6 with, and signed by, the nonminor.

7 (B) Parents and legal guardians shall be advised that, pursuant
8 to Section 1228.1 of the Evidence Code, neither their signature on
9 the child welfare services case plan nor their acceptance of any
10 services prescribed in the child welfare services case plan shall
11 constitute an admission of guilt or be used as evidence against the
12 parent or legal guardian in a court of law. However, they shall also
13 be advised that the parent's or guardian's failure to cooperate,
14 except for good cause, in the provision of services specified in the
15 child welfare services case plan may be used in any hearing held
16 pursuant to Section 366.21, 366.22, or 366.25 as evidence.

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

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

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

1 shall include child-specific recruitment efforts, such as the use of
2 state, regional, and national adoption exchanges, including
3 electronic exchange systems, when the child has been freed for
4 adoption. If the plan is for kinship guardianship, the case plan shall
5 document how the child meets the kinship guardianship eligibility
6 requirements.

7 (16) (A) When appropriate, for a child who is 16 years of age
8 or older and, commencing January 1, 2012, for a nonminor
9 dependent, the case plan shall include the transitional independent
10 living plan (TILP), a written description of the programs and
11 services that will help the child, consistent with the child's best
12 interests, prepare for the transition from foster care to independent
13 living, and, in addition, whether the youth has an in-progress
14 application pending for Title XVI Supplemental Security Income
15 benefits or for Special Immigrant Juvenile Status or other
16 applicable application for legal residency and an active dependency
17 case is required for that application. When appropriate, for a
18 nonminor dependent, the transitional independent living case plan,
19 as described in subdivision (v) of Section 11400, shall include the
20 TILP, a written description of the programs and services that will
21 help the nonminor dependent, consistent with his or her best
22 interests, to prepare for transition from foster care and assist the
23 youth in meeting the eligibility criteria set forth in paragraphs (1)
24 to (5), inclusive, of subdivision (b) of Section 11403. If applicable,
25 the case plan shall describe the individualized supervision provided
26 in the supervised independent living placement as defined in
27 subdivision ~~(x)~~ (w) of Section 11400. The case plan shall be
28 developed with the child or nonminor dependent and individuals
29 identified as important to the child or nonminor dependent, and
30 shall include steps the agency is taking to ensure that the child or
31 nonminor dependent achieves permanence, including maintaining
32 or obtaining permanent connections to caring and committed adults.

33 (B) During the 90-day period prior to the participant attaining
34 18 years of age or older as the state may elect under Section
35 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec.
36 675(8)(B)(iii)), whether during that period foster care maintenance
37 payments are being made on the child's behalf or the child is
38 receiving benefits or services under Section 477 of the federal
39 Social Security Act (42 U.S.C. Sec. 677), a caseworker or other
40 appropriate agency staff or probation officer and other

1 representatives of the participant, as appropriate, shall provide the
2 youth or nonminor with assistance and support in developing the
3 written 90-day transition plan, that is personalized at the direction
4 of the child, information as detailed as the participant elects that
5 shall include, but not be limited to, options regarding housing,
6 health insurance, education, local opportunities for mentors and
7 continuing support services, and workforce supports and
8 employment services, a power of attorney for health care and
9 information regarding the advance health care directive form.

10 (g) If the court finds, after considering the case plan, that
11 unsupervised sibling visitation is appropriate and has been
12 consented to, the court shall order that the child or the child's
13 siblings, the child's current caregiver, and the child's prospective
14 adoptive parents, if applicable, be provided with information
15 necessary to accomplish this visitation. This section does not
16 require or prohibit the social worker's facilitation, transportation,
17 or supervision of visits between the child and his or her siblings.

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

22 (i) When a child who is 10 years of age or older and who has
23 been in out-of-home placement for six months or longer, the case
24 plan shall include an identification of individuals, other than the
25 child's siblings, who are important to the child and actions
26 necessary to maintain the child's relationship with those
27 individuals, provided that those relationships are in the best interest
28 of the child. The social worker shall ask every child who is 10
29 years of age or older and who has been in out-of-home placement
30 for six months or longer to identify individuals other than the
31 child's siblings who are important to the child, and may ask any
32 other child to provide that information, as appropriate. The social
33 worker shall make efforts to identify other individuals who are
34 important to the child, consistent with the child's best interests.

35 (j) The child's caregiver shall be provided a copy of a plan
36 outlining the child's needs and services. The nonminor dependent's
37 caregiver shall be provided with a copy of the nonminor's TILP.

38 (k) On or before June 30, 2008, the department, in consultation
39 with the County Welfare Directors Association and other
40 advocates, shall develop a comprehensive plan to ensure that 90

1 percent of foster children are visited by their caseworkers on a
2 monthly basis by October 1, 2011, and that the majority of the
3 visits occur in the residence of the child. The plan shall include
4 any data reporting requirements necessary to comply with the
5 provisions of the federal Child and Family Services Improvement
6 Act of 2006 (Public Law 109-288).

7 (l) The implementation and operation of the amendments to
8 subdivision (i) enacted at the 2005–06 Regular Session shall be
9 subject to appropriation through the budget process and by phase,
10 as provided in Section 366.35.

11 ~~SEC. 57.~~

12 *SEC. 54.* Section 16501.3 of the Welfare and Institutions Code
13 is amended to read:

14 16501.3. (a) The State Department of Social Services shall
15 establish a program of public health nursing in the child welfare
16 services program. The purpose of the public health nursing program
17 shall be to identify, respond to, and enhance the physical, mental,
18 dental, and developmental well-being of children in the child
19 welfare system.

20 (b) Under this program, counties shall use the services of a foster
21 care public health nurse. The foster care public health nurse shall
22 work with the appropriate child welfare services workers to
23 coordinate health care services and serve as a liaison with health
24 care professionals and other providers of health-related services.
25 This shall include coordination with county mental health plans
26 and local health jurisdictions, as appropriate.

27 (c) The duties of a foster care public health nurse shall include,
28 but need not be limited to, the following:

29 (1) Documenting that each child in foster care receives initial
30 and followup health screenings that meet reasonable standards of
31 medical practice.

32 (2) Collecting health information and other relevant data on
33 each foster child as available, receiving all collected information
34 to determine appropriate referral and services, and expediting
35 referrals to providers in the community for early intervention
36 services, specialty services, dental care, mental health services,
37 and other health-related services necessary for the child.

38 (3) Participating in medical care planning and coordinating for
39 the child. This may include, but is not limited to, assisting case
40 workers in arranging for comprehensive health and mental health

1 assessments, interpreting the results of health assessments or
2 evaluations for the purpose of case planning and coordination,
3 facilitating the acquisition of any necessary court authorizations
4 for procedures or medications, advocating for the health care needs
5 of the child and ensuring the creation of linkage among various
6 providers of care.

7 (4) Providing followup contact to assess the child’s progress in
8 meeting treatment goals.

9 (5) At the request of and under the direction of the nonminor
10 dependent, as described in subdivision (v) of Section 11400, assist
11 the nonminor dependent in accessing health and mental health
12 care, coordinating the delivery of health and mental health care
13 services, advocating for the health and mental health care that
14 meets the needs of the nonminor dependent, and to assist the
15 nonminor dependent to assume responsibility for his or her ongoing
16 health care management.

17 (d) The services provided by foster care public health nurses
18 under this section shall be limited to those for which reimbursement
19 may be claimed under Title XIX at an enhanced rate for services
20 delivered by skilled professional medical personnel.
21 Notwithstanding any other provision of law, this section shall be
22 implemented only if, and to the extent that, the department
23 determines that federal financial participation, as provided under
24 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396
25 et seq.), is available.

26 (e) (1) The State Department of Health Care Services shall seek
27 any necessary federal approvals for child welfare agencies to
28 appropriately claim enhanced federal Title XIX funds for services
29 provided pursuant to this section.

30 (2) Commencing in the fiscal year immediately following the
31 fiscal year in which the necessary federal approval pursuant to
32 paragraph (1) is secured, county child welfare agencies shall
33 provide health care oversight services pursuant to this section, and
34 may accomplish this through agreements with local public health
35 agencies.

36 (f) (1) Notwithstanding Section 10101, prior to the 2011–12
37 fiscal year, there shall be no required county match of the
38 nonfederal cost of this program.

39 (2) Commencing in the 2011–12 fiscal year, and each fiscal
40 year thereafter, funding and expenditures for programs and

1 activities under this section shall be in accordance with the
2 requirements provided in Sections 30025 and 30026.5 of the
3 Government Code.

4 ~~SEC. 58.~~

5 *SEC. 55.* Section 16503.5 of the Welfare and Institutions Code
6 is amended to read:

7 16503.5. (a) A placing agency shall provide a caregiver
8 placement agreement to the child’s or nonminor dependent’s
9 caregiver at the time of the child’s placement with that caregiver.

10 (b) (1) For purposes of this section, “caregiver placement
11 agreement” means a written agreement between the placing agency
12 and the child’s or nonminor dependent’s caregiver. The department
13 shall approve the format and content of the placement agreement
14 form to be used by a placing agency.

15 (2) For purposes of this section, “nonminor dependent” means
16 an individual described in subdivision (v) of Section 11400.

17 (c) The agreement shall describe the terms and conditions of
18 the placement and any agreements made by the placing agency
19 and the child’s or nonminor’s caregiver.

20 (d) The agreement shall provide, at a minimum, the contact
21 information for the placing agency’s social worker and the worker’s
22 supervisor, including, but not limited to, telephone numbers,
23 facsimile numbers, and identifying information about the child or
24 nonminor, including, but not limited to, the child’s or nonminor’s
25 social security number, if available, the child’s or nonminor’s
26 Medi-Cal number or group health plan number and information,
27 if available, and the child’s or nonminor’s State Department of
28 Social Services identification number.

29 (e) A county placing agency may modify the forms to meet
30 local needs by adding to the form requirements for information,
31 but may not delete the form’s core elements as determined by the
32 department.

33 ~~SEC. 59.~~

34 *SEC. 56.* Section 16507 of the Welfare and Institutions Code
35 is amended to read:

36 16507. (a) Family reunification services shall be provided or
37 arranged for by county welfare department staff in order to reunite
38 the child separated from his or her parent because of abuse, neglect,
39 or exploitation. These services shall not exceed 12 months except
40 as provided in subdivision (a) of Section 361.5 and subdivision

1 (c) of Section 366.3. Family reunification services pursuant to
2 Section 361.6 may be provided to nonminor dependents as
3 described in subdivision (v) of Section 11400. Family reunification
4 services shall be available without regard to income to families
5 whose child has been adjudicated or is in the process of being
6 adjudicated a dependent child of the court under the provisions of
7 Section 300. Family reunification services shall include a plan for
8 visitation of the child by his or her grandparents, where the
9 visitation is in the best interests of the child and will serve to
10 maintain and strengthen the family relationships of the child.

11 (b) Family reunification services shall only be provided when
12 a child has been placed in out-of-home care, or is in the care of a
13 previously noncustodial parent under the supervision of the juvenile
14 court.

15 (c) When a minor has been placed in foster care with a
16 nonparent, family reunification services may be provided to one
17 or both parents.

18 (d) When a county child welfare services agency is providing
19 one parent with reunification services and the other parent is
20 serving a prison term for the conviction of child abuse, pursuant
21 to Section 273a, 273ab, or 273d of the Penal Code, any sex offense
22 specified as being perpetrated against a minor, or an act of domestic
23 violence, the county child welfare services agency may request
24 that the Board of Prison Terms, with respect to inmates sentenced
25 pursuant to subdivision (b) of Section 1168 of the Penal Code, or
26 the Department of Corrections, with respect to inmates sentenced
27 pursuant to Section 1170 of the Penal Code, provide the agency,
28 during the time in which reunification services are being provided,
29 with notification that the person is scheduled to be released on
30 parole, or rereleased following a period of confinement pursuant
31 to a parole revocation without a new commitment.

32 ~~SEC. 60.~~

33 *SEC. 57.* Section 16508 of the Welfare and Institutions Code
34 is amended to read:

35 16508. Permanent placement services shall be provided or
36 arranged for by county welfare department staff for children who
37 cannot safely live with their parents and are not likely to return to
38 their own homes, and to nonminor dependents in planned
39 permanent living arrangements. Permanent placement services,

1 including supportive transition services, shall be available without
2 regard to income to the following children:

3 (a) Children judged dependent under Section 300 where a review
4 has determined that reunification, adoption, tribal customary
5 adoption, or guardianship is inappropriate.

6 (b) Recipients of public assistance under the nonfederally funded
7 Aid to Families with Dependent Children Foster Care program
8 who are wards of a legal guardian pursuant to Section 11405, where
9 a review has determined that reunification or adoption is
10 inappropriate.

11 (c) On and after January 1, 2012, nonminor dependents, as
12 defined in subdivision (v) of Section 11400, who are receiving
13 AFDC-FC pursuant to Section 11403.

14 (d) For purposes of this section, “supportive transition services”
15 means permanent placement services provided to nonminor
16 dependents as described in subdivision (v) of Section 11400.

17 ~~SEC. 61.~~

18 *SEC. 58.* Section 16514 of the Welfare and Institutions Code
19 is amended to read:

20 16514. (a) A minor who has been voluntarily placed, adjudged
21 a dependent child of the juvenile court pursuant to Section 300,
22 or as to whom a petition has been filed under Section 325, may be
23 housed in an emergency shelter or, pursuant to the procedures for
24 placement set forth in this code, placed in a foster family home,
25 or with a foster family agency for subsequent placement in a
26 suitable licensed foster family home or certified family home, with
27 minors adjudged wards of the juvenile court pursuant to Section
28 601.

29 (b) A minor who has been voluntarily placed, adjudged a
30 dependent child of the juvenile court pursuant to Section 300, or
31 adjudged a ward of the juvenile court pursuant to Section 601,
32 shall not be housed in an emergency shelter with any minor
33 adjudged a ward of the juvenile court pursuant to Section 602.

34 (c) A minor or nonminor who has been voluntarily placed,
35 adjudged a dependent child of the juvenile court pursuant to Section
36 300, or as to whom a petition has been filed under Section 325, or
37 a nonminor dependent, as described in subdivision (v) of Section
38 11400, shall not be placed or detained in a group home or licensed
39 foster family home or with a foster family agency to be
40 subsequently placed in a certified family home with any minor

1 adjudged a ward of the juvenile court pursuant to Section 601 or
2 602, unless the social worker or probation officer has determined
3 that the group home or licensed foster family home or foster family
4 agency has a program that meets the specific needs of the minor
5 or nonminor dependent being placed or detained, and there is a
6 commonality of needs with the other minors and nonminor
7 dependents in the group home or licensed foster family home or
8 certified family home.

9 (d) Nothing in this section shall transfer or eliminate the
10 responsibility of the placing agency for the care, custody, or control
11 of the child. Nothing in this section shall relieve a foster family
12 agency of its responsibilities for or on behalf of a child placed with
13 it.

14 For purposes of this section, the placing of children or nonminor
15 dependents by foster family agencies shall be referred to as
16 “subsequent placement” to distinguish the activity from the placing
17 by public agencies.

18 ~~SEC. 62.~~

19 *SEC. 59.* Section 16521.5 of the Welfare and Institutions Code
20 is amended to read:

21 16521.5. (a) A foster care provider, in consultation with the
22 county case manager, shall be responsible for ensuring that
23 adolescents, including nonminor dependents, as described in
24 subdivision (v) of Section 11400, who remain in long-term foster
25 care, as defined by the department, receive age-appropriate
26 pregnancy prevention information to the extent state and county
27 resources are provided.

28 (b) A foster care provider, in consultation with the county case
29 manager, shall be responsible for ensuring that a foster youth or
30 nonminor dependent is provided with appropriate referrals to health
31 services when the foster youth either reaches 18 years of age or
32 the nonminor dependent exits foster care, and to the extent county
33 and state resources are provided.

34 (c) As part of the home study process, the prospective foster
35 care provider shall notify the county if he or she objects to
36 participating in adolescent pregnancy prevention training or the
37 dissemination of information pursuant to subdivisions (a) and (b).
38 A licensed foster care provider shall notify the county if he or she
39 objects to participation. If the provider objects, the county case
40 manager shall assume this responsibility.

1 (d) Subdivisions (a), (b), and (c) shall not take effect until the
2 department, in consultation with the workgroup, develops
3 guidelines that describe the duties and responsibilities of foster
4 care providers and county case managers in delivering pregnancy
5 prevention services and information.

6 (e) (1) The department, in consultation with the State
7 Department of Health Services, shall convene a working group
8 for the purpose of developing a pregnancy prevention plan that
9 will effectively address the needs of adolescent male and female
10 foster youth. The workgroup shall meet not more than three times
11 and thereafter shall provide consultation to the department upon
12 request.

13 (2) The working group shall include representatives from the
14 California Youth Connection, the Foster Parent’s Association,
15 group home provider associations, the County Welfare Director’s
16 Association, providers of teen pregnancy prevention programs, a
17 foster care case worker, an expert in pregnancy prevention
18 curricula, a representative of the Independent Living Program, and
19 an adolescent health professional.

20 (f) The plan required pursuant to subdivision (e) shall include,
21 but not be limited to, all of the following:

22 (1) Effective strategies and programs for preteen and older teen
23 foster youth and nonminor dependents.

24 (2) The role of foster care and group home care providers.

25 (3) The role of the assigned case management worker.

26 (4) How to involve foster youth and nonminor peers.

27 (5) Selecting and providing appropriate materials to educate
28 foster youth and nonminors in family life education.

29 (6) The training of foster care and group home care providers
30 and, when necessary, county case managers in adolescent
31 pregnancy prevention.

32 (g) Counties currently mandating foster care provider training
33 shall be encouraged to include the pregnancy prevention curricula
34 guidelines and educational materials that may be developed by the
35 workgroup pursuant to subdivision (f).

36 (h) The department shall adopt regulations to implement this
37 section.

38 ~~SEC. 63.~~

39 *SEC. 60.* Section 16522 of the Welfare and Institutions Code
40 is amended to read:

1 16522. (a) The State Department of Social Services shall adopt
2 regulations to govern licensed transitional housing placement
3 providers that provide supervised transitional housing to foster
4 children at least 16 years of age and not more than 18 years of age,
5 and nonminor dependents, as defined in subdivision (v) of Section
6 11400.

7 (b) The department may structure statewide implementation of
8 transitional housing placement providers on a phased-in basis.

9 (c) (1) Transitional Housing Program-Plus providers, as defined
10 in subdivision (s) of Section 11400, shall not be subject to licensure
11 pursuant to Section 1559.110 of the Health and Safety Code, if
12 they are certified to provide transitional housing by the applicable
13 county and have obtained a local fire clearance.

14 (2) By July 31, 2012, the department shall establish certification
15 standards and procedures for the THP-Plus Foster Care program,
16 as described in subdivision (c) of Section 16522.1, in consultation
17 with the County Welfare Directors Association, the California
18 Youth Connection, county probation departments, provider
19 representatives, and other stakeholders, as appropriate.

20 (d) Transitional housing placement providers shall certify that
21 housing units comply with the health and safety standards set forth
22 in paragraph (5) of subdivision (b) of Section 1501 of the Health
23 and Safety Code. Transitional housing shall include any of the
24 following:

25 (1) ~~Programs in which one or more participants in the program~~
26 ~~live in an apartment, single-family dwelling, or condominium with~~
27 ~~an adult employee of the provider, or host family home~~ *a*
28 *participant lives in an apartment, single-family dwelling, or*
29 *condominium, with one or more adults approved by the provider.*

30 (2) Programs in which a participant lives independently in an
31 apartment, single-family dwelling, or condominium ~~rented~~ *owned*
32 or leased by the provider ~~located~~ *either with an adult employee of*
33 *the provider or in a building in which one or more adult employees*
34 *of the provider reside and provide supervision.*

35 (3) Programs in which a participant lives independently in an
36 apartment, single-family dwelling, or condominium ~~rented~~ *owned*
37 or leased by a provider under the supervision of the provider if the
38 State Department of Social Services provides approval. The
39 housing model described in this paragraph shall be available to

1 minor foster children, if placed prior to October 1, 2012, and to
2 nonminor dependents.

3 (e) The regulations shall be age-appropriate and recognize that
4 youth who are about to exit from the foster care system should be
5 subject to fewer restrictions than those who are foster children. At
6 a minimum, the regulations shall provide for both of the following:

7 (1) Require programs that serve youth who are both in and out
8 of the foster care system to have separate rules and program design,
9 as appropriate, for these two groups of youth.

10 (2) Allow youth who have exited from the foster care system,
11 on or after their 18th birthday, to have the greatest amount of
12 freedom possible in order to prepare them for their transition to
13 adulthood.

14 (f) The regulations governing licensed transitional housing
15 placement providers that serve nonminor dependents shall be age
16 appropriate and recognize that nonminor dependents who are about
17 to exit from the foster care system should be subject to fewer
18 restrictions than those who are foster children. At a minimum, the
19 regulations shall provide for both of the following:

20 (1) Require programs that serve foster children and nonminor
21 dependents to have separate rules and program design, as
22 appropriate, for these two groups of youth.

23 (2) Allow nonminor dependents to have the greatest amount of
24 freedom possible in order to prepare them for their transition to
25 adulthood, in accordance with paragraph (1) of subdivision (b) of
26 Section 1502.7 of the Health and Safety Code.

27 (3) *Maintain a program staffing ratio of case manager to client*
28 *not to exceed 1 to 12.*

29 ~~SEC. 64.~~

30 *SEC. 61.* Section 16522.1 of the Welfare and Institutions Code
31 is amended to read:

32 16522.1. (a) In order to be licensed as a transitional housing
33 placement provider pursuant to Section 1559.110 of the Health
34 and Safety Code and be eligible for payment of AFDC-FC benefits
35 pursuant to Sections 11403.2 and 11403.3, an applicant shall obtain
36 certification from the applicable county specifying whether the
37 facility will serve foster youth at least 16 years of age and not more
38 than 18 years of age, nonminor dependents, as defined in
39 subdivision (v) of Section 11400, or both, as follows:

1 (1) A program serving foster children at least 16 years of age
2 and not more than 18 years of age shall obtain a certification
3 entitled “Transitional Housing Placement Program.”

4 (2) A program serving nonminor dependents at least 18 years
5 of age and not more than 21 years of age shall obtain a certification
6 entitled a “Transitional Housing Placement-Plus Foster Care
7 program.”

8 (b) The certification for the Transitional Housing Placement
9 Program shall confirm that the program provides for all of the
10 following:

11 (1) Admission criteria for participants in the program, including,
12 but not limited to, consideration of the applicant’s age, previous
13 placement history, delinquency history, history of drug or alcohol
14 abuse, current strengths, level of education, mental health history,
15 medical history, prospects for successful participation in the
16 program, and work experience. Youth who are wards of the court
17 described in Section 602 and youth receiving psychotropic
18 medications shall be eligible for consideration to participate in the
19 program, and shall not be automatically excluded due to these
20 factors.

21 (2) The department shall review the admission criteria to ensure
22 that the criteria are sufficient to protect participants and that they
23 do not discriminate on the basis of any characteristic listed or
24 defined in Section 11135 of the Government Code.

25 (3) Strict employment criteria that include a consideration of
26 the employee’s age, drug or alcohol history, and experience in
27 working with persons in this age group.

28 (4) A training program designed to educate employees who
29 work directly with participants about the characteristics of persons
30 in this age group placed in long-term care settings, and designed
31 to ensure that these employees are able to adequately supervise
32 and counsel participants and to provide them with training in
33 independent living skills.

34 (5) A detailed plan for monitoring the placement of persons
35 under the licensee’s care.

36 (6) A contract between the participating person and the licensee
37 that specifically sets out the requirements for each party, and in
38 which the licensee and the participant agree to the requirements
39 of this article.

- 1 (7) An allowance to be provided to each participant in the
2 program. In the case of a participant living independently, this
3 allowance shall be sufficient for the participant to purchase food
4 and other necessities.
- 5 (8) A system for payment for utilities, telephone, and rent.
- 6 (9) Policies regarding all of the following:
- 7 (A) Education requirements.
- 8 (B) Work expectations.
- 9 (C) Savings requirements.
- 10 (D) Personal safety.
- 11 (E) Visitors, including, but not limited to, visitation by the
12 placement auditor pursuant to paragraph (5).
- 13 (F) Emergencies.
- 14 (G) Medical problems.
- 15 (H) Disciplinary measures.
- 16 (I) Child care.
- 17 (J) Pregnancy.
- 18 (K) Curfew.
- 19 (L) Apartment cleanliness.
- 20 (M) Use of utilities and telephone.
- 21 (N) Budgeting.
- 22 (O) Care of furnishings.
- 23 (P) Decorating of apartments.
- 24 (Q) Cars.
- 25 (R) Lending or borrowing money.
- 26 (S) Unauthorized purchases.
- 27 (T) Dating.
- 28 (U) Grounds for termination that may include, but shall not be
29 limited to, illegal activities or harboring runaways.
- 30 (10) Apartment furnishings, and a policy on disposition of the
31 furnishings when the participant completes the program.
- 32 (11) Evaluation of the participant's progress in the program and
33 reporting to the independent living program and to the department
34 regarding that progress.
- 35 (12) A linkage to the federal Workforce Investment Act of 1998
36 (29 U.S.C. Sec. 2801 et seq.) program administered in the local
37 area to provide employment training to eligible participants.
- 38 (13) Effective January 1, 2013, a program staffing ratio of case
39 manager to client of ~~no less than 12 to 1~~ *not to exceed 1 to 12*.

1 (c) The certification for the Transitional Housing Placement-Plus
2 Foster Care program for nonminor dependents, as described in
3 paragraph (2) of subdivision (a), from the applicable county shall
4 include all of the following:

- 5 (1) That the program is needed by the county.
- 6 (2) That the provider is capable of effectively and efficiently
7 operating the program.
- 8 (3) That the provider is willing and able to accept the
9 AFDC-FC-eligible nonminor dependents for placement by the
10 placing agency who need the level of care and services that will
11 be provided by the program.
- 12 (4) That the plan of operation is suitable to meet the needs of
13 the identified population.
- 14 (5) That the program staffing ratio of case manager to client is
15 ~~no less than 1 to 12~~ *does not exceed 1 to 12*.
- 16 (6) As used in subdivision (c), “applicable county,” for purposes
17 of the certification of a program that serves nonminor dependents,
18 means the county where the administrative office or
19 subadministrative office of a transitional housing placement
20 provider is located, or a primary placing county.

21 ~~SEC. 65.~~

22 *SEC. 62.* Section 18251 of the Welfare and Institutions Code
23 is amended to read:

24 18251. As used in this chapter:

- 25 (a) “County” means each county participating in an
26 individualized or wraparound services program.
- 27 (b) “County placing agency” means a county welfare or
28 probation department, or a county mental health department.
- 29 (c) “Eligible child” means a child or nonminor dependent, as
30 described in subdivision (v) of Section 11400, who is any of the
31 following:
 - 32 (1) A child or nonminor dependent who has been adjudicated
33 as either a dependent, transition dependent, or ward of the juvenile
34 court pursuant to Section 300, 450, 601, or 602 and who would be
35 placed in a group home licensed by the department at a rate
36 classification level of 10 or higher.
 - 37 (2) A child or nonminor dependent who is currently, or who
38 would be, placed in a group home licensed by the department at
39 a rate classification level of 10 or higher.

1 (3) A child who is eligible for adoption assistance program
2 benefits when the responsible public agency has approved the
3 provision of wraparound services in lieu of out-of-home placement
4 care at a rate classification level of 10 or higher.

5 (d) “Wraparound services” means community-based intervention
6 services that emphasize the strengths of the child and family and
7 includes the delivery of coordinated, highly individualized
8 unconditional services to address needs and achieve positive
9 outcomes in their lives.

10 (e) “Service allocation slot” means a specified amount of funds
11 available to the county to pay for an individualized intensive
12 wraparound services package for an eligible child. A service
13 allocation slot may be used for more than one child on a successive
14 basis.

15 ~~SEC. 66.~~

16 *SEC. 63.* Section 18964 of the Welfare and Institutions Code
17 is amended to read:

18 18964. (a) Notwithstanding any provision of law governing
19 the disclosure of information and records, including, but not limited
20 to, Section 5328 of the Welfare and Institutions Code, a person
21 who is trained and qualified to serve on a multidisciplinary
22 personnel team pursuant to subdivision (d) of Section 18951,
23 whether or not the person is serving on a team, may be deemed,
24 by the team, to be part of the team as necessary for the purpose of
25 the prevention, identification, management, or treatment of an
26 abused child and his or her parents. The designated team may deem
27 a person to be a member of the team for a particular case, and that
28 team shall specify its reasons, in writing, for deeming that person
29 to be a member of the team. The person, when deemed a member
30 of the team, may receive and disclose information relevant to a
31 particular case as though he or she were a member of the team.
32 The information and records which may be disclosed shall not be
33 restricted to those obtained in the course of providing services
34 pursuant to this chapter.

35 (b) The caregiver of the child and, in the case of an Indian child,
36 the child’s tribe shall be permitted to provide information about
37 the child to the multidisciplinary personnel team that will be
38 considered by the team and to attend meetings of the
39 multidisciplinary personnel team, as deemed appropriate by the
40 team, without becoming a member of the team. Any caregiver or

1 tribal representative who attends multidisciplinary personnel team
2 meetings shall agree in writing not to disclose any confidential
3 information he or she receives as a result of his or her participation
4 with the team.

5 (c) This section does not apply to the records of or pertaining
6 to a nonminor dependent. The multidisciplinary personnel team
7 may have access to those records only with the explicit written
8 and informed consent of the nonminor dependent.

9 ~~SEC. 67.~~

10 *SEC. 64.* Section 18986.46 of the Welfare and Institutions
11 Code is amended to read:

12 18986.46. (a) A program shall utilize children's
13 multidisciplinary services teams, as defined in this chapter.

14 (b) A team member shall provide program services only as
15 employed by, under contract with, or otherwise affiliated with, the
16 program, and shall not share information, or provide program
17 services, when acting as a separate local, state, or private agency
18 or entity.

19 (c) A program shall be considered a single program for purposes
20 of federal substance abuse program regulations contained in Part
21 2 (commencing with Section 2.1) of Title 42 of the Code of Federal
22 Regulations.

23 (d) Notwithstanding any other provision of law regarding
24 disclosure of information and records, a program shall be permitted
25 to establish a unified services record for a child and family. That
26 record shall contain all records of prior services that are released
27 to the program and that are relevant and necessary to formulate an
28 integrated services plan, pursuant to valid written authorizations,
29 as well as a record of all service provided under the program.

30 (e) Notwithstanding any other provision of law regarding
31 disclosure of information and records, when a child enters the
32 program a parent, guardian, judicial officer with jurisdiction over
33 the minor, or a minor with legal power to consent, or nonminor
34 dependent, as described in subdivision (v) of Section 11400, shall
35 be asked to sign a single authorization that gives a knowing and
36 informed consent, in writing, and that complies with all other
37 applicable provisions of state law governing release of medical,
38 mental health, social service, and educational records, and that
39 covers multiple service providers, in order to permit the release of
40 records to the program. This single authorization shall not include

1 adoption records. The authorized representative of the child, or
2 the child in a case where he or she has the legal right to consent,
3 or the nonminor dependent, shall be fully apprised of the
4 requirements of this subdivision prior to participation in the
5 program. Before information may be exchanged about a particular
6 child or family pursuant to this chapter, a representative of the
7 program shall do all of the following:

8 (1) Explain to the authorized representative of the child, or the
9 child in a case where he or she has the legal right to consent, or
10 the nonminor dependent, both of the following, and this explanation
11 shall be given before any information about the child or family is
12 recorded and before any services are provided:

13 (A) Information provided by the child or family, or nonminor
14 dependent, may only be exchanged within the program with the
15 express written consent of the authorized representative.

16 (B) Information shall not be disclosed to anyone other than
17 members of the children’s multidisciplinary services team, and
18 those qualified to receive information as explained in subdivision
19 (i).

20 (2) The authorized representative of the child, or the child in a
21 case where he or she has the legal right to consent, or the nonminor
22 dependent, shall be informed that he or she has a right to refuse to
23 sign, or to limit the scope of, the consent form, and that a refusal
24 to sign, or to limit the scope of, the consent form will not have an
25 adverse impact on the client’s eligibility for services under the
26 programs described in this chapter.

27 (f) The knowing and informed consent given pursuant to this
28 chapter shall only be in force for the time that the child or family,
29 or nonminor dependent, is a client of the program.

30 (g) (1) Notwithstanding any provision of state law governing
31 the disclosure of information and records, persons who are trained,
32 qualified, and assigned by their respective agencies to serve on
33 teams within a program and other team members included pursuant
34 to this chapter may view relevant sections of unified program
35 records and may disclose to one another relevant information and
36 view records on a child or the child’s family as necessary to
37 formulate an integrated services plan or to deliver services to
38 children and their families.

39 (2) This information and records may include information
40 relevant to the evaluation of the child and his or her family, the

1 development of a treatment plan for the child and his or her family,
2 and the delivery of services. Relevant information and records
3 shall be shared with family members or family designees on the
4 team, except information or records, if any, disclosure of which
5 the team determines would present a reasonable risk of a significant
6 adverse or detrimental effect on the minor's psychological or
7 physical safety.

8 (h) (1) If the members of a children's multidisciplinary services
9 team within an integrated children's services program require
10 records held by other team members, copies may be provided to
11 them.

12 (2) Notwithstanding any other provisions of law regarding
13 disclosure of information and records, a program may establish
14 and maintain a common data base for the purpose of delivering
15 services under the program. The database may contain demographic
16 data and may identify the services recommended for, and provided
17 to, a child and his or her family by the program. The database shall
18 be for use and disclosure only within the program, except by
19 properly authorized consent by a parent, guardian, judicial officer
20 with jurisdiction over the child, or a minor with the legal power
21 to consent.

22 (3) The program may authorize use of information contained
23 in the database for bona fide evaluation and research purposes,
24 unless otherwise prohibited by law. No information disclosed under
25 this paragraph shall permit identification of the individual patient
26 or client. The release of copies of mental health records, physical
27 health records, and drug or alcohol records in programs establishing
28 a unified services record shall be governed by the single
29 authorization of informed and knowing consent to release these
30 records. In programs not establishing a unified services record and
31 not utilizing the single authorization of informed and knowing
32 consent, release of these records may take place only after the team
33 has received a form permitting release of records on the child or
34 the child's family, signed by the child, to the extent the records
35 were generated as a result of health care services to which the child
36 has the power to consent under state law, or, to the extent that the
37 records have not been generated by the provision of these health
38 care services, by the child's parent, guardian, or legal
39 representative, including the court which has jurisdiction over
40 those children who are wards or dependents of the court.

1 (i) The children’s multidisciplinary services team may designate
2 persons qualified pursuant to Section 18986.40 to be a member of
3 the team for a particular case. A person designated as a team
4 member pursuant to this subdivision may receive and disclose
5 relevant information and records, subject to the confidentiality
6 provisions of subdivision (k).

7 (j) The sharing of information permitted under subdivision (g)
8 shall be governed by memoranda of understanding among the
9 participating service providers or agencies in the coordinated
10 children’s service system or program. These memoranda shall
11 specify the types of information that may be shared without a
12 signed release form, in accordance with subdivision (e), and the
13 process to be used to ensure that current confidentiality
14 requirements, as described in subdivision (k), are met. This
15 paragraph shall not be construed to waive any right of privilege
16 contained in the Evidence Code, except in compliance with Section
17 912 of that code.

18 (k) Every member of the children’s multidisciplinary services
19 team who receives information or records on children and families
20 served in the integrated children’s services program shall be under
21 the same privacy and confidentiality obligations and subject to the
22 same confidentiality penalties as the person disclosing or providing
23 the information or records. The information or records obtained
24 shall be maintained in a manner that ensures the maximum
25 protection of privacy and confidentiality rights.

26 (l) This section shall not be construed to restrict guarantees of
27 confidentiality provided under federal law.

28 (m) Information and records communicated or provided to the
29 program, by all providers, programs, and agencies, as well as
30 information and records created by the program in the course of
31 serving its children and their families, shall be deemed private and
32 confidential and shall be protected from discovery and disclosure
33 by all applicable statutory and common law protections. Civil and
34 criminal penalties shall apply to the inappropriate disclosure of
35 information held by the program. Nothing in this section shall be
36 construed to affect the authority of a health care provider to disclose
37 medical information pursuant to paragraph (1) of subdivision (c)
38 of Section 56.10 of the Civil Code.

1 ~~SEC. 68.~~

2 *SEC. 65.* (a) The State Department of Social Services shall
3 develop regulations to implement this act, in consultation with
4 concerned stakeholders, including, but not limited to,
5 representatives of the Legislature, the County Welfare Directors
6 Association, the Chief Probation Officers of California, the Judicial
7 Council, representatives of Indian tribes, the California Youth
8 Connection, former foster youth, child advocacy organizations,
9 labor organizations, juvenile justice advocacy organizations, foster
10 caregiver organizations, and researchers. In developing these
11 regulations, the department shall consider its Manual of Policy
12 and Procedures, Chapter 30-000, Sections 30-912, 30-913, 30-916,
13 and 30-917, as guidelines for developing regulations that are
14 appropriate for young adults who can exercise incremental
15 responsibility concurrently with their growth and development.
16 The department, in its consultation with stakeholders, shall take
17 into consideration the impact to the Automated Child Welfare
18 Services Case Management Services (CWS-CMS) and required
19 modifications needed to accommodate eligibility determination
20 under this section, benefit issuance, case management across
21 counties, and recognition of the legal status of nonminor
22 dependents as adults, as well as changes to data tracking and
23 reporting requirements as required by the Child Welfare System
24 Improvement and Accountability Act of 2001 as specified in
25 Section 10601.2, and federal outcome measures as required by the
26 federal John H. Chafee Foster Care Independence Program (42
27 U.S.C. Sec. 677(f)).

28 (b) Notwithstanding the rulemaking provisions of the
29 Administrative Procedure Act (Chapter 3.5 (commencing with
30 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
31 Code), the department shall prepare for implementation of the
32 applicable provisions of this act by publishing, after consultation
33 with the stakeholders listed in subdivision (a), all-county letters
34 or similar instructions from the Director of Social Services by
35 April 1, 2013. Emergency regulations to implement the applicable
36 provisions of this act may be adopted by the director in accordance
37 with the Administrative Procedure Act. The initial adoption of the
38 emergency regulations and one readoption of the emergency
39 regulations shall be deemed to be an emergency and necessary for
40 the immediate preservation of the public peace, health, safety, or

1 general welfare. Initial emergency regulations and the first
2 readoption of those emergency regulations shall be exempt from
3 review by the Office of Administrative Law. The emergency
4 regulations authorized by this section shall be submitted to the
5 Office of Administrative Law for filing with the Secretary of State
6 and shall remain in effect for no more than 180 days.

7 ~~SEC. 69.~~

8 *SEC. 66.* The Judicial Council may adopt any rules of court or
9 Judicial Council forms necessary to implement this act.

10 ~~SEC. 70.~~

11 *SEC. 67.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution for certain
13 costs that may be incurred by a local agency or school district
14 because, in that regard, this act creates a new crime or infraction,
15 eliminates a crime or infraction, or changes the penalty for a crime
16 or infraction, within the meaning of Section 17556 of the
17 Government Code, or changes the definition of a crime within the
18 meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 However, if the Commission on State Mandates determines that
21 this act contains other costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.

25 ~~SEC. 71.~~

26 *SEC. 68.* This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the Constitution and shall go into
29 immediate effect. The facts constituting the necessity are:

30 In order to ensure accurate and timely instructions, guidance,
31 rules, and regulations for child welfare agencies, probation
32 departments, and tribal governments, needed for the
33 implementation of provisions of Assembly Bill 12 (Chapter 559
34 of the Statutes of 2010) that became operative on or before January
35 1, 2012, it is necessary for this act to take effect immediately.