Assembly Bill No. 1712

CHAPTER 846

An act to amend Section 17552 of the Family Code, to amend Sections 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, 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 to, and to repeal and add Section 366.31 of, the Welfare and Institutions Code, relating to foster care placements.

[Approved by Governor September 30, 2012. Filed with
Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1712, 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. This bill 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. By increasing county duties, this 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. 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.

Funds are continuously appropriated from the General Fund to defray a portion of the state's share of costs under the CalWORKs program, the AFDC-FC program, and for the placement of hard-to-place adoptive children.

This bill would instead, provide that the continuous appropriation would not be made for purposes of implementing the bill.

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.

This bill would incorporate additional changes in Section 11170 of the Penal Code proposed by AB 1707, to be operative only if AB 1707 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Sections 317 and 16010 of the Welfare and Institutions Code proposed by AB 1909, to be operative only if AB 1909 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Section 361 of the Welfare and Institutions Code proposed by SB 1064 and AB 2060 that would become operative only if either or both of these bills are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Sections 361.5 and 16501.1 of the Welfare and Institutions Code proposed by SB 1064 and SB 1521 that would become operative only if either or both of these bills are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Section 366 of the Welfare and Institutions Code proposed by AB 2209, to be operative only if AB 2209 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Sections 366.21, 366.22, and 366.25 of the Welfare and Institutions Code proposed by SB 1064 and AB 2292 that would become operative only if either or both of these bills are chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Section 388 of the Welfare and Institutions Code proposed by SB 1064, to be operative only if SB 1064 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

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.

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

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

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

17552. (a) The State Department of Social Services, in consultation with the Department of Child Support Services, shall promulgate regulations by which the county child welfare department, in any case of separation or desertion of a parent or parents from a child that results in foster care assistance payments under Section 11400 of, or a voluntary placement under Section 11401.1 of, or the payments for a minor child placed in the same home as a minor or nonminor dependent parent under Section 11401.4 of, the Welfare and Institution Code, or CalWORKs payments to a caretaker relative of a child who comes within the jurisdiction of the juvenile court under Section 300, 601, or 602 of the Welfare and Institutions Code, who has been removed from the parental home and placed with the caretaker relative by court order, and who is under the supervision of the county child welfare agency or probation department under Section 11250 of, or Kin-GAP payments under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of, or aid under subdivision (c) of Section 10101 of, the Welfare and Institutions Code, shall determine whether 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. If reunification services are not offered or are terminated, the case may be referred to the local child support agency, unless the child's permanent plan is legal guardianship with a relative who is receiving Kin-GAP and the payment of support by the parent may compromise the stability of the current placement with the related guardian, or the permanent plan is transitional foster care for the nonminor under Section 11403 of the Welfare and Institutions Code. In making the determination, the department regulations shall provide the factors the county child welfare department shall consider, including:

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

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

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

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

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

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

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

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

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

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

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

(c) Any juvenile placement facility approved by the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or any juvenile hall operated by a county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) Any similar facility determined by the director.

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

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

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

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

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

(1) Programs in which a participant lives in an apartment, single-family dwelling, or condominium, with one or more adults approved by the provider.

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

(3) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium owned or leased by a provider under the supervision of the provider if the State Department of Social Services provides approval. The housing model described in this paragraph shall be available to minor foster children, if placed prior to October 1, 2012, and to nonminor dependents.

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

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

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

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

(C) Maintain a program staffing ratio of case manager to client not to exceed 1 to 12.

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

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

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

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index (CACI) pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency.

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

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

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

(2) When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report of the results of the

investigation and of any action the agency is taking with regard to the child or family.

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

(4) The department shall make available to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties, or to a tribal court or tribal child welfare agency of a tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or approval, or any adult who resides or is employed in the home of an applicant for licensure or approval, or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code, or Section 11403.2 of the Welfare and Institutions Code.

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

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

(7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the

placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the CACI from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the CACI that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

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

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

(10) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate (CASA) program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (8), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

(B) If CACI information is requested by an agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the

requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

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

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

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

(c) (1) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the CACI that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed

at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

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

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

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

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

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state

agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

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

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

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

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

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

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

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

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

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

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

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

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

(g) If a nonminor dependent's dependency jurisdiction has been resumed, or transition jurisdiction assumed or resumed by the juvenile court that retained general jurisdiction pursuant to subdivision (b) of Section 303, as a result of the filing of a petition pursuant to subdivision (e) of Section 388, following the granting of the petition, the county in which the nonminor dependent is living at the time the petition was filed may be deemed the county of residence, if and when the nonminor dependent establishes that he or she has had a continuous physical presence in the county for one year and has expressed his or her intent to remain in that county. The period of continuous physical presence in the county shall include any period of continuous residence in the county immediately prior to the filing of the petition.

SEC. 7.5. Section 11170 of the Penal Code is amended to read:

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

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index (CACI) pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency.

(3) Only information from reports that are reported as substantiated shall be filed pursuant to paragraph (1), and all other determinations shall be removed from the central list. If a person listed in the CACI was under 18 years of age at the time of the report, the information shall be deleted from the CACI 10 years from the date of the incident resulting in the CACI listing, if no subsequent report concerning the same person is received during that time period.

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

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

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

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

(4) The department shall make available to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties, or to a tribal court or tribal child welfare agency of a tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or approval, or any adult who resides or is employed in the home of an applicant for licensure or approval, or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code, or Section 11403.2 of the Welfare and Institutions Code.

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

(6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each

county child death review team, or the State Child Death Review Council, information for investigative purposes only that is maintained in the CACI pursuant to subdivision (a) relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, or Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the CACI from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the CACI that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

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

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

(10) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate (CASA) program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing

the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (8), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

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

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

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

(C) All moneys, other than those described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title

9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

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

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

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

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective

foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subsection (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

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

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

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

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

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

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

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

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

(a) "Adult" means a person 18 years of age or older.

(b) "Child or minor" means a person under 18 years of age.

(c) "CASA" means a Court-Appointed Special Advocate. "CASA" also refers to a Court Designated Child Advocate in programs which have utilized that title. A CASA has the duties and responsibilities described in this chapter and shall be trained by and function under the auspices of a Court Appointed Special Advocate program as set forth in this chapter.

(d) "Court" means the superior court, including the juvenile court.

(e) "Dependent" means a child described in Section 300 of the Welfare and Institutions Code.

(f) "Nonminor dependent" means a foster child as described in subdivision (v) of Section 11400.

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

102. (a) Each CASA program shall, if feasible, be staffed by a minimum of one paid administrator. The staff shall be directly accountable to the presiding juvenile court judge and the CASA program board of directors, as applicable.

(b) The program shall provide for volunteers to serve as CASAs. A CASA may be appointed in juvenile dependency proceedings under Section 300, including proceedings involving a nonminor dependent.

(c) Each CASA shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA has been appointed and that appointment may continue after the child attains his or her age of majority, with the consent of the nonminor dependent. A CASA shall do all of the following:

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

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

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

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

(1) Dynamics of child abuse and neglect.

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

(3) Social service systems.

(4) Child development.

(5) Interviewing techniques.

(6) Report writing.

(7) Roles and responsibilities of a CASA.

(8) Rules of evidence and discovery procedures.

(9) Problems associated with verifying reports.

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

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

107. (a) Except as provided in subdivision (b), upon presentation of the order of his or her appointment by the CASA, and upon specific court order and consistent with the rules of evidence, any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the CASA to inspect and copy any records relating to the child involved in the case of appointment without the consent of the child or parents.

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

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

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

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

(1) The mother.

(2) The presumed father.

(3) The legal guardian or guardians.

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

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

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

(7) The current caregiver of a nonminor dependent, as described in subdivision (v) of Section 11400. The person notified may attend all hearings and may submit for filing an original and eight copies of written information

he or she deems relevant to the court. The court clerk shall provide the current parties and attorneys of record with a copy of the written information immediately upon receipt and complete, file, and distribute a proof of service.

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

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

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

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

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

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

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

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

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

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

(b) On and after January 1, 2012, the court shall have within its jurisdiction any nonminor dependent, as defined in subdivision (v) of Section 11400. The court may terminate its dependency, delinquency, or transition jurisdiction over the nonminor dependent between the time the nonminor reaches the age of majority and 21 years of age. If the court terminates dependency, delinquency, or transition jurisdiction, the nonminor dependent shall remain under the general jurisdiction of the court in order to allow for a petition under subdivision (e) of Section 388.

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

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

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

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

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

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

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

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

(c) If a child or nonminor dependent is not represented by counsel, the court shall appoint counsel for the child or nonminor dependent, unless the

court finds that the child or nonminor dependent would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding. A primary responsibility of counsel appointed to represent a child or nonminor dependent pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child or nonminor dependent. Counsel may be a district attorney, public defender, or other member of the bar, provided that he or she does not represent another party or county agency whose interests conflict with the child's or nonminor dependent's interests. The fact that the district attorney represents the child or nonminor dependent in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services of appointed counsel. The appointed counsel shall have a caseload and training that ensures adequate representation of the child or nonminor dependent. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.

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

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

(2) If the child is four years of age or older, counsel shall interview the child to determine the child's wishes and assess the child's well-being, and shall advise the court of the child's wishes. Counsel shall not advocate for

the return of the child if, to the best of his or her knowledge, return of the child conflicts with the protection and safety of the child.

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

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

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

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

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

(f) Either the child or counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to consent, which shall be presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be the holder of these privileges if the child is found by the court not to be of sufficient age and maturity to consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner, as defined in former Section 11165.8 of the Penal Code, as that section read on January 1, 2000, or a child care custodian, as defined in former Section 11165.7 of the Penal Code, as that section read on January 1, 2000. Notwithstanding any other law, counsel shall be given access to all records relevant to the case that are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

(g) In a county of the third class, if counsel is to be provided to a child at the county's expense other than by counsel for the agency, the court shall first utilize the services of the public defender prior to appointing private

counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

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

SEC. 13.5. Section 317 of the Welfare and Institutions Code is amended to read:

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

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of Section 1912(b) of Title 25 of the United States Code and Section 23.13 of Title 25 of the Code of Federal Regulations shall apply.

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

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

pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services of appointed counsel. The appointed counsel shall have a caseload and training that ensures adequate representation of the child or nonminor dependent. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.

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

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

(2) If the child is four years of age or older, counsel shall interview the child to determine the child's wishes and assess the child's well-being, and shall advise the court of the child's wishes. Counsel shall not advocate for the return of the child if, to the best of his or her knowledge, return of the child conflicts with the protection and safety of the child.

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

(4) (A) At least once very year, if the list of educational liaisons is available on the Internet Web site for the State Department of Education, both of the following shall apply:

(i) Counsel shall provide his or her contact information to the educational liaison, as described in subdivision (b) of Section 48853.5 of the Education Code, of each local educational agency serving counsel's foster child clients in the county of jurisdiction.

(ii) If counsel is part of a firm or organization representing foster children, the firm or organization may provide its contact information in lieu of contact information for the individual counsel. The firm or organization may designate a person or persons within the firm or organization to receive communications from educational liaisons.

(B) The child's caregiver or other person holding the right to make educational decisions for the child may provide the contact information of the child's attorney to the child's local educational agency.

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

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

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

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

(f) Either the child or counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to consent, which shall be presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be the holder of these privileges if the child is found by the court not to be of sufficient age and maturity to consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner, as defined in former Section 11165.8 of the Penal Code, as that section read on January 1, 2000, or a child care custodian, as defined in former Section 11165.7 of the Penal Code, as that section read on January 1, 2000. Notwithstanding any other law, counsel shall be given access to all records relevant to the case that are maintained by state or local public agencies. All information requested from a child protective agency regarding a child

who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

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

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

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

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionnmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child or nonminor dependent until one of the following occurs:

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

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

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

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time,

for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

An individual who would have a conflict of interest in representing the child or nonminor dependent may not be appointed to make educational or developmental services decisions. For purposes of this section, "an individual who would have a conflict of interest," means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys' fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

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

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

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

If the court cannot identify a responsible adult to make developmental services decisions for the child or nonminor dependent, the court may, with the input of any interested person, make developmental services decisions for the child or nonminor dependent. If the child is receiving services from a regional center, the provision of any developmental services related to the court's decision must be consistent with the child's or nonminor dependent individual program plan and pursuant to the provisions of the Lanterman

Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child.

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

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

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

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

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can

be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

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

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

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

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

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

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

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

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

SEC. 14.1. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) (1) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may

not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child or nonminor dependent until one of the following occurs:

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

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

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

(D) A successor guardian or conservator is appointed.

(E) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

(2) An individual who would have a conflict of interest in representing the child or nonminor dependent may not be appointed to make educational or developmental services decisions. For purposes of this section, "an individual who would have a conflict of interest," means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys' fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(3) If the court limits the parent's educational rights pursuant to this subdivision, the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child who is available and willing to serve as the child's educational representative before appointing an educational representative or surrogate who is not known to the child.

If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply, and the child has either

been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

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

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

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

(5) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the representative or surrogate shall meet with the child, shall investigate the child's educational needs and whether those needs are being met, and shall, prior to each review hearing held under this article, provide information and recommendations concerning the child's educational needs to the child's social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child's education.

(6) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

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

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

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

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

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

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

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care

or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

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

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

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

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

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

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

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

SEC. 14.2. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational

or developmental services decisions for the child or nonminor dependent until one of the following occurs:

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

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

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

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

An individual who would have a conflict of interest in representing the child or nonminor dependent may not be appointed to make educational or developmental services decisions. For purposes of this section, "an individual who would have a conflict of interest," means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorney's fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

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

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

If the court appoints a developmental services decisionmaker pursuant to this section, he or she shall have the authority to access the child's or

nonminor dependent's information and records pursuant to subdivision (u) of Section 4514 and subdivision (y) of Section 5328, and to act on the child's or nonminor dependent's behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

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

All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child.

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

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

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

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

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

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

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

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

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

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

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

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

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

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

SEC. 14.3. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) (1) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child or nonminor dependent until one of the following occurs:

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

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

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

(D) A successor guardian or conservator is appointed.

(E) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

(2) An individual who would have a conflict of interest in representing the child or nonminor dependent may not be appointed to make educational or developmental services decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those

conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorney's fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(3) If the court limits the parent's educational rights pursuant to this subdivision, the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child who is available and willing to serve as the child's educational representative before appointing an educational representative or surrogate who is not known to the child.

If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

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

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

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

(5) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the

representative or surrogate shall meet with the child, shall investigate the child's educational needs and whether those needs are being met, and shall, prior to each review hearing held under this article, provide information and recommendations concerning the child's educational needs to the child's social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child's education.

(6) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

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

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

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

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

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

which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

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

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

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

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

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

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

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

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

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

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

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

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

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

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

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

(2) Any motion to terminate court-ordered reunification services prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1), or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1), shall be made pursuant to the requirements set forth in subdivision (c) of Section 388. A motion to terminate court-ordered reunification services shall not be required at the

hearing set pursuant to subdivision (e) of Section 366.21 if the court finds by clear and convincing evidence one of the following:

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

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

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

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

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

In cases where the child was under three years of age on the date of the initial removal from the physical custody of his or her parent or guardian or is a member of a sibling group as described in subparagraph (C) of paragraph (1), the court shall inform the parent or guardian that the failure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) That the child was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state that, if committed in this state, would

constitute one of those offenses. This paragraph only applies to the parent who committed the offense or act.

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

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

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

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

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

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

The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court

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

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

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

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

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

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

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six

months of the out-of-home placement of the child, the court shall order the social worker to provide family reunification services in accordance with this subdivision.

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

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

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

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

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

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

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections and Rehabilitation pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code,

the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

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

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

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

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

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

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

proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

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

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

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

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

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

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

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

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile

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

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

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

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

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

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

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

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

(j) When the court determines that reunification services will not be ordered, it shall order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

SEC. 15.1. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, or when a court adjudicates a petition under Section 329 to modify the court's jurisdiction from delinquency jurisdiction to dependency jurisdiction pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 607.2 and the parents or guardian of the ward have had reunification services terminated under the delinquency jurisdiction, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court

of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child.

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

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

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

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

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

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

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

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

(3) Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in

the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, or parent or parents court-ordered to a residential substance abuse treatment program, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

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

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

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

will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that it is in the child's best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) That the parent has been required by the court to be registered on a sex offender registry under the federal Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec. 16913(a)), as required in Section

106(b)(2)(B)(xvi)(VI) of the Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C. Sec. 5106a(2)(B)(xvi)(VI)).

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

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

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

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

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

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of

detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration or institutionalization within the reunification time limitations described in subdivision (a), and any other appropriate factors. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated or otherwise institutionalized parent's access to those court-mandated services and ability to maintain contact with his or her child, and shall document this information in the child's case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

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

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

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

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

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

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

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, or long-term foster care, or in the case of an Indian

child, in consultation with the child's tribe, tribal customary adoption, is the most appropriate plan for the child, and shall consider in-state and out-of-state placement options. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

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

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

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

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

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, including a prospective tribal customary parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's

or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) When the court determines that reunification services will not be ordered, it shall order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

SEC. 15.2. Section 361.5 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

court-ordered to a residential substance abuse treatment program, or a parent who has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated or detained by the United States Department of Homeland Security and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court, or has been deported to his or her country of origin and services ordered by the court are not accessible in that country. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the time period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

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

(4) Notwithstanding paragraph (3), court-ordered services may be extended up to a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of his or her parent or guardian if it is shown, at the hearing held pursuant to subdivision (b) of Section 366.22, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that it is in the

child's best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) That the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had

been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian.

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

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

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

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

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

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

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

competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits specified in subdivision (a).

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

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

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

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

(e) (1) If the parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security, or has been deported to his or her country of origin, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations described in subdivision (a), and any other appropriate factors. In determining the content of reasonable services, the court shall consider the particular barriers to an

incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with his or her child, and shall document this information in the child's case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

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

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

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

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

(E) Reasonable efforts to assist parents who have been deported to contact child welfare authorities in their country of origin, to identify any available services that would substantially comply with case plan requirements, to document the parents' participation in those services, and to accept reports from local child welfare authorities as to the parents' living situation, progress, and participation in services.

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

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

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, or long-term foster care, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, is

the most appropriate plan for the child, and shall consider in-state and out-of-state placement options. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

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

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

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

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

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, including a prospective tribal customary parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) When the court determines that reunification services will not be ordered, it shall order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

SEC. 15.3. Section 361.5 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

court-ordered to a residential substance abuse treatment program, or a parent who has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated or detained by the United States Department of Homeland Security and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court, or has been deported to his or her country of origin and services ordered by the court are not accessible in that country. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the time period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

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

(4) Notwithstanding paragraph (3), court-ordered services may be extended up to a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of his or her parent or guardian if it is shown, at the hearing held pursuant to subdivision (b) of Section 366.22, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that it is in the

child's best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) That the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had

been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian.

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

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

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

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

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

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

(16) That the parent or guardian has been required by the court to be registered on a sex offender registry under the federal Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec. 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C. Sec. 5106a(2)(B)(xvi)(VI)).

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

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

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

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

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

(e) (1) If the parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security, or has been deported to his or her country of origin, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if

services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations described in subdivision (a), and any other appropriate factors. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with his or her child, and shall document this information in the child's case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

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

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

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

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

(E) Reasonable efforts to assist parents who have been deported to contact child welfare authorities in their country of origin, to identify any available services that would substantially comply with case plan requirements, to document the parents' participation in those services, and to accept reports from local child welfare authorities as to the parents' living situation, progress, and participation in services.

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

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

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

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

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

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

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

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of

Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

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

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

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

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

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

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

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

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program as provided for in Article 4.5 (commencing

with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, as applicable.

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

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

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

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

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

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

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

(j) When the court determines that reunification services will not be ordered, it shall order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

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

361.6. (a) Notwithstanding any other law, the court may order family reunification services to continue for a nonminor dependent, as defined in subdivision (v) of Section 11400, if the nonminor dependent and parent, parents, or legal guardian are in agreement and the court finds that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent and there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing. The continuation of the court-ordered reunification services shall not exceed the timeframes as set forth in Section 361.5. If the nonminor dependent or parent, parents, or legal guardian are not in agreement, or the court finds there is not a substantial probability that the nonminor will be able to safely reside in the home of the parent or guardian, the court shall terminate family reunification services to the parents or guardian. The nonminor dependent's legal status as an adult is, in and of itself, a compelling reason not to hold a hearing pursuant

to Section 366.26. The court may order that a nonminor dependent who is otherwise eligible for AFDC-FC benefits pursuant to Section 11403 remain in a planned, permanent living arrangement.

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

(c) An order terminating court-ordered family reunification services under this section shall not be considered evidence of a condition required for the filing of a petition to terminate a parent's or legal guardian's court-ordered family reunification services with the nonminor dependent's sibling or half-sibling under subdivision (c) of Section 388.

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

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

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

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

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

(1) Court personnel.

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

(3) The nonminor dependent.

(4) The attorney for the nonminor dependent.

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

(6) The social services agency or probation department.

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

(8) The county counsel.

(9) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary for the performance of their duties to inspect, license, and investigate community care facilities, to ensure that the standards of care and services provided in those facilities are

adequate and appropriate, and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate from the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released, except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the nonminor dependent.

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

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

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

366. (a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

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

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

(C) Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make

educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of subdivision (a) enacted at the 2005–06 Regular

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

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

SEC. 18.5. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) (1) A review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall not result in a placement of a child outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and must show, by clear and convincing evidence, that a placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker or placing agency to make a placement outside the United States. A child subject to this subdivision

shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, "outside the United States" shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This section shall not apply to the placement of a dependent child with a parent.

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

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

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

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

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

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

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker

shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

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

(e) At the review hearing held six months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be

detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided, taking into account the particular barriers to an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

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

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

For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group, as described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interest of each child in the

sibling group. The court shall specify the factual basis for its finding that it is in the best interest of each child to schedule a hearing pursuant to Section 366.26 in 120 days for some or all of the members of the sibling group.

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

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

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

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

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain

criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child and shall make appropriate findings pursuant to subdivision (a) of Section 366.

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

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

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

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

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

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

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

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

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

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

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

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

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court orders a termination of reunification services to the parent of legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

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

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

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

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

of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 19.1. Section 366.21 of the Welfare and Institutions Code is amended to read:

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

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

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody

of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

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

(e) At the review hearing held six months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, after considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that

the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided, taking into account the particular barriers to an incarcerated or institutionalized parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

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

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

For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing

pursuant to Section 366.26 for some or all members of a sibling group, as described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interest of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interest of each child to schedule a hearing pursuant to Section 366.26 in 120 days for some or all of the members of the sibling group.

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

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

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

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

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the

time limits of subdivision (a) of Section 361.5. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to an incarcerated or institutionalized parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child and shall make appropriate findings pursuant to subdivision (a) of Section 366.

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

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the

permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

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

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

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

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

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

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

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

(3) Order that the child remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the

child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency that adoption is not in the best interest of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child and shall not preclude a different recommendation at a later date if the child's circumstances change. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.

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

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

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court orders a termination of reunification services to the parent or legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

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

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

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

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

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

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

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

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

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

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

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute

the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

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

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

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

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

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

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

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

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

SEC. 19.2. Section 366.21 of the Welfare and Institutions Code is amended to read:

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

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

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

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, the facility or agency shall file with the court a report, or a Judicial Council Caregiver Information Form (JV-290), containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county

adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided, taking into account the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

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

If the child was under three years of age on the date of the initial removal, or is a member of a sibling group described in subparagraph (C) of paragraph

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

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

If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. The court shall take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration, institutionalization, detention by the United States Department of Homeland Security, or deportation. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

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

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or legal guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5,

provided that the court may modify the terms and conditions of those services.

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

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Regardless of whether the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child

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

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

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

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

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

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

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

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

(2) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date

the child was originally taken from the physical custody of his or her parent or legal guardian, if the parent has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, and the court determines either that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian.

(3) For purposes of paragraph (2), in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court must find all of the following:

(A) The parent or legal guardian has consistently and regularly contacted and visited with the child, taking into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's arrest and receipt of an immigration hold, detention by the United States Department of Homeland Security, or deportation.

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

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

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

(5) Order that the child remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency that adoption is not in the best interest of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child and shall not preclude a different recommendation at a later date if the child's circumstances change. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section

366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.

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

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

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court orders a termination of reunification services to the parent or legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

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

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

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

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including the prospective tribal customary adoptive parent, particularly the caretaker, to

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

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

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

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

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

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

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

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

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall

agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

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

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

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

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

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

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

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

SEC. 19.3. Section 366.21 of the Welfare and Institutions Code is amended to read:

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

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

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home

placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

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

(e) At the review hearing held six months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, after

considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided, taking into account the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

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

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

six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

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

If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. The court shall take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration, institutionalization, detention by the United States Department of Homeland Security, or deportation. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

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

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

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

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Regardless of whether the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state placement options. If the child is placed out of the state, the court shall make a determination whether

the out-of-state placement continues to be appropriate and in the best interests of the child.

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

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

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

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

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

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

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

(2) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian, if the parent has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, and the court determines either that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the

home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian.

(3) For purposes of paragraph (2), in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court must find all of the following:

(A) The parent or legal guardian has consistently and regularly contacted and visited with the child, taking into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's arrest and receipt of an immigration hold, detention by the United States Department of Homeland Security, or deportation.

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

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

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

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

If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals

other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained.

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

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court orders a termination of reunification services to the parent or legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for

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

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

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

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

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

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

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

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

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in

court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers of an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

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

Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child, and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best

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

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

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

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

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

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

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

(3) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration or

institutionalization, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 20.1. Section 366.22 of the Welfare and Institutions Code is amended to read:

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

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

Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in

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

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

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

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

(b) If the child is not returned to a parent or legal guardian at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to a parent or legal guardian who is making significant and consistent progress in a court-ordered residential substance abuse treatment program, or a parent recently discharged from

incarceration or institutionalization and making significant and consistent progress in establishing a safe home for the child's return, the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

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

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

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

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

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

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

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

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes

of this subparagraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

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

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

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

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

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

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

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

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

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for

aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

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

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

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

SEC. 20.2. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) or (2) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return

would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers of an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

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

Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child, and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (5) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those

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

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

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

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

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

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

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

(3) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration, institutionalization, or detention, or following deportation to his or her

country of origin and his or her return to the United States, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of

Division 9, "relative" as used in this section has the same meaning as "relative " as defined in subdivision (c) of Section 11391.

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

SEC. 20.3. Section 366.22 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

(b) If the child is not returned to a parent or legal guardian at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision

of additional reunification services to a parent or legal guardian who is making significant and consistent progress in a court-ordered residential substance abuse treatment program, or a parent recently discharged from incarceration, institutionalization, or the custody of the United States Department of Homeland Security and making significant and consistent progress in establishing a safe home for the child's return, the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

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

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

(3) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration, institutionalization, or detention, or following deportation to his or her country of origin and his or her return to the United States, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The standard for the evaluation of the prospective adoptive parents' home shall be the prevailing social and cultural standard of the child's tribe. The home study shall include an evaluation of the background, safety, and health information of the adoptive home, including the biological, psychological, and social factors of the prospective adoptive parent or parents, and an assessment of the commitment, capability, and suitability of the prospective adoptive parent or parents to meet the child's needs.

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

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

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

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

(D) An individual who is the subject of a background check conducted pursuant to this paragraph may be provided by the entity performing the background check with a copy of his or her state or federal level criminal offender record information search response as provided to that entity by the Department of Justice if the entity has denied a criminal background

clearance based on this information and the individual makes a written request to the entity for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The entity shall retain a copy of the individual's written request and the response and date provided.

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

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

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

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

(6) If the tribe identifies tribal customary adoption as the permanent placement plan for the Indian child, the court may continue the selection and implementation hearing governed by Section 366.26 for a period not to exceed 120 days to permit the tribe to complete the process for tribal customary adoption and file with the court a tribal customary adoption order evidencing that a tribal customary adoption has been completed. The tribe shall file with the court the tribal customary adoption order no less than 20 days prior to the date set by the court for the continued selection and implementation hearing. The department shall file with the court the addendum selection and implementation hearing court report no less than seven days prior to the date set by the court for the continued selection and implementation hearing. The court shall have discretion to grant an additional continuance to the tribe for filing a tribal customary adoption order up to, but not exceeding, 60 days. If the child's tribe does not file the tribal customary adoption order within the designated time period, the court shall make new findings and orders pursuant to subdivision (b) of Section 366.26 and this subdivision to determine the best permanent plan for the child.

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

(8) Upon the court affording full faith and credit to the tribal customary adoption order and the tribe's approval of the home study, the child shall be eligible for tribal customary adoptive placement. The agency that has

placement and care responsibility of the child shall be authorized to make a tribal customary adoptive placement and sign a tribal customary adoptive placement agreement and, thereafter, shall sign the adoption assistance agreement pursuant to subdivision (g) of Section 16120. The prospective adoptive parent or parents desiring to adopt the child may then file the petition for adoption. The agency shall supervise the adoptive placement for a period of six months unless either of the following circumstances exists:

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

(B) The child to be adopted is placed with a relative with whom he or she has an established relationship.

(9) All licensed public adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to tribal customary adoptees or prospective tribal customary adoptive parents of pertinent medical information reported to the department or the licensed public adoption agency, upon the request of the person reporting the medical information.

(A) A licensed public adoption agency may not place a child for tribal customary adoption unless a written report on the child's medical background and, if available, the medical background on the child's biological parents, so far as ascertainable, has been submitted to the prospective tribal customary adoptive parents and they have acknowledged in writing the receipt of the report.

(B) The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history.

(10) The tribal customary adoption order shall include, but not be limited to, a description of (A) the modification of the legal relationship of the birth parents or Indian custodian and the child, including contact, if any, between the child and the birth parents or Indian custodian, responsibilities of the birth parents or Indian custodian, and the rights of inheritance of the child and (B) the child's legal relationship with the tribe. The order shall not include any child support obligation from the birth parents or Indian custodian. There shall be a conclusive presumption that any parental rights or obligations not specified in the tribal customary adoption order shall vest in the tribal customary adoptive parents.

(11) Prior consent to a permanent plan of tribal customary adoption of an Indian child shall not be required of an Indian parent or Indian custodian whose parental relationship to the child will be modified by the tribal customary adoption.

(12) After the prospective adoptive parent or parents desiring to adopt the child have filed the adoption petition, the agency that has placement,

care, and responsibility for the child shall submit to the court, a full and final report of the facts of the proposed tribal customary adoption. The requisite elements of the final court report shall be those specified for court reports in the department's regulations governing agency adoptions.

(13) Notwithstanding any other provision of law, after the tribal customary adoption order has been issued and afforded full faith and credit by the state court, supervision of the adoptive placement has been completed, and the state court has issued a final decree of adoption, the tribal customary adoptive parents shall have all of the rights and privileges afforded to, and are subject to all the duties of, any other adoptive parent or parents pursuant to the laws of this state.

(14) Consistent with Section 366.3, after the tribal customary adoption has been afforded full faith and credit and a final adoption decree has been issued, the court shall terminate its jurisdiction over the Indian child.

(15) Nothing in this section is intended to prevent the transfer of those proceedings to a tribal court where transfer is otherwise permitted under applicable law.

(d) The following disclosure provisions shall apply to tribal customary adoptions:

(1) The petition, agreement, order, report to the court from any investigating agency, and any power of attorney filed in a tribal customary adoption proceeding is not open to inspection by any person other than the parties to the proceeding and their attorneys and the department, except upon the written authority of the judge of the juvenile court. A judge may not authorize anyone to inspect the petition, agreement, order, report to the court from any investigating agency, and any power of attorney except in exceptional circumstances and for good cause approaching the necessitous.

(2) Except as otherwise permitted or required by statute, neither the department, county adoption agency, nor any licensed adoption agency shall release information that would identify persons who receive, or have received, tribal customary adoption services. However, employees of the department, county adoption agencies, and licensed adoption agencies shall release to the State Department of Social Services any requested information, including identifying information, for the purpose of recordkeeping and monitoring, evaluation, and regulation of the provision of tribal customary adoption services.

(3) The department, county adoption agency, or licensed adoption agency may, upon written authorization for the release of specified information by the subject of that information, share information regarding a prospective tribal customary adoptive parent or birth parent with other social service agencies, including the department, county adoption agencies, and other licensed adoption agencies, or providers of health care as defined in Section 56.05 of the Civil Code.

(4) Notwithstanding any other law, the department, county adoption agency, or licensed adoption agency may furnish information relating to a tribal customary adoption petition or to a child in the custody of the department or any public adoption agency to the juvenile court, county

welfare department, public welfare agency, private welfare agency licensed by the department, provider of foster care services, potential adoptive parents, or provider of health care as defined in Section 56.05 of the Civil Code, if it is believed the child's welfare will be promoted thereby.

(5) The department, county adoption agency, or licensed adoption agency may make tribal customary adoption case records, including identifying information, available for research purposes, provided that the research will not result in the disclosure of the identity of the child or the parties to the tribal customary adoption to anyone other than the entity conducting the research.

(e) This section shall remain operative only to the extent that compliance with its provisions does not conflict with federal law as a condition of receiving funding under Title IV-E or the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(f) The Judicial Council shall adopt rules of court and necessary forms required to implement tribal customary adoption as a permanent plan for dependent Indian children. The Judicial Council shall study California's tribal customary adoption provisions and their effects on children, birth parents, adoptive parents, Indian custodians, tribes, and the court, and shall report all of its findings to the Legislature on or before January 1, 2013. The report shall include, but not be limited to, the following:

(1) The number of families served and the number of completed tribal customary adoptions.

(2) The length of time it takes to complete a tribal customary adoption.

(3) The challenges faced by social workers, court, and tribes in completing tribal customary adoptions.

(4) The benefits or detriments to Indian children from a tribal customary adoption.

SEC. 22. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent or legal guardian's ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of

the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parents or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption or, in the case of an Indian child, tribal customary adoption, and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the

subsequent permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of, and nature of, any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship

arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of

Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

(e) The implementation and operation of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 22.1. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent's or legal guardian's ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parents or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship,

or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption or, in the case of an Indian child, tribal customary adoption, and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the subsequent permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of, and nature of, any contact between the child and his or her parents and other members of his or her extended family

since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

(e) The implementation and operation of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 22.2. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent or legal guardian's ability to exercise custody and control regarding his or her child provided

that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parents or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (5) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption or, in the case of an Indian child, tribal customary adoption, and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may

make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the subsequent permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of, and nature of, any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the

adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver

for a minor eligible for aid under the Kin-GAP Program, as provided in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

(e) The implementation and operation of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 22.3. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent's or legal guardian's ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parents or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing

be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (5) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption or, in the case of an Indian child, tribal customary adoption, and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the subsequent permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of, and nature of, any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute

the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

(e) The implementation and operation of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 23. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8616.5 of the Family Code is applicable and available to all dependent children meeting the requirements of that section, if the postadoption contact agreement has been entered into voluntarily. For children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently

terminating parental rights with regard to, or establishing legal guardianship of, the child while the child is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, 366.22, or 366.25, shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:

(1) Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) Order, without termination of parental rights, the plan of tribal customary adoption, as described in Section 366.24, through tribal custom, traditions, or law of the Indian child's tribe, and upon the court affording the tribal customary adoption order full faith and credit at the continued selection and implementation hearing, order that a hearing be set pursuant to paragraph (2) of subdivision (e).

(3) Appoint a relative or relatives with whom the child is currently residing as legal guardian or guardians for the child, and order that letters of guardianship issue.

(4) On making a finding under paragraph (3) of subdivision (c), identify adoption or tribal customary adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

(5) Appoint a nonrelative legal guardian for the child and order that letters of guardianship issue.

(6) Order that the child be placed in long-term foster care, subject to the periodic review of the juvenile court under Section 366.3.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) (1) If the court determines, based on the assessment provided as ordered under subdivision (i) of Section 366.21, subdivision (b) of Section 366.22, or subdivision (b) of Section 366.25, and any other relevant evidence, by a clear and convincing standard, that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption. The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely the child will be adopted. A finding under subdivision (b) or paragraph (1) of subdivision (e) of Section 361.5 that reunification services shall not be offered, under subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months, or that the parent has been convicted of a felony indicating parental unfitness, or, under Section 366.21 or 366.22, that the court has continued to remove the child from the custody of the parent or

guardian and has terminated reunification services, shall constitute a sufficient basis for termination of parental rights. Under these circumstances, the court shall terminate parental rights unless either of the following applies:

(A) The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship, and the removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child. For purposes of an Indian child, "relative" shall include an "extended family member," as defined in the federal Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

(B) The court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances:

(i) The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

(ii) A child 12 years of age or older objects to termination of parental rights.

(iii) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(iv) The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of his or her foster parent or Indian custodian would be detrimental to the emotional well-being of the child. This clause does not apply to any child who is either (I) under six years of age or (II) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.

(v) There would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption.

(vi) The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:

(I) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.

(II) The child's tribe has identified guardianship, long-term foster care with a fit and willing relative, tribal customary adoption, or another planned permanent living arrangement for the child.

(III) The child is a nonminor dependent, and the nonminor and the nonminor's tribe have identified tribal customary adoption for the nonminor.

(C) For purposes of subparagraph (B), in the case of tribal customary adoptions, Section 366.24 shall apply.

(D) If the court finds that termination of parental rights would be detrimental to the child pursuant to clause (i), (ii), (iii), (iv), (v), or (vi), it shall state its reasons in writing or on the record.

(2) The court shall not terminate parental rights if:

(A) At each hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(B) In the case of an Indian child:

(i) At the hearing terminating parental rights, the court has found that active efforts were not made as required in Section 361.7.

(ii) The court does not make a determination at the hearing terminating parental rights, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as defined in Section 224.6, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(iii) The court has ordered tribal customary adoption pursuant to Section 366.24.

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child, within the state or out of the state, within a period not to exceed 180 days. During this 180-day period, the public agency responsible for seeking adoptive parents for each child shall, to the extent possible, ask each child who is 10 years of age or older, to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents. The public agency may ask any other child to provide that information, as appropriate. During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's

membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child is seven years of age or more.

(4) (A) If the court finds that adoption of the child or termination of parental rights is not in the best interest of the child, because one of the conditions in clause (i), (ii), (iii), (iv), (v), or (vi) of subparagraph (B) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the child order that the child remain in long-term foster care, or, in the case of an Indian child, consider a tribal customary adoption pursuant to Section 366.24. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. A child who is 10 years of age or older, shall be asked to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential guardians or, in the case of an Indian child, prospective tribal customary adoptive parents. The agency may ask any other child to provide that information, as appropriate.

(B) If the child is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the child shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the relative caretaker or foster parents.

(C) The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the child.

(5) If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the child with a stable and permanent environment, the court may order the care, custody, and control of the child transferred from the county welfare department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director regarding the suitability of the transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the child in a suitable licensed or exclusive-use home that has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the child and providing appropriate services to the child, including those services ordered by the court. Responsibility for the support of the child shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the child. Those children whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a child who is a dependent of the juvenile court shall be in the juvenile court. If the court

finds pursuant to this section that legal guardianship is the appropriate permanent plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, subdivision (b) of Section 366.22, and subdivision (b) of Section 366.25 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) (1) The proceeding for the adoption of a child who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanent plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by Section 8715 of the Family Code shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a child who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

(2) In the case of an Indian child, if the Indian child's tribe has elected a permanent plan of tribal customary adoption, the court, upon receiving the tribal customary adoption order will afford the tribal customary adoption order full faith and credit to the same extent that the court would afford full faith and credit to the public acts, records, judicial proceedings, and judgments of any other entity. Upon a determination that the tribal customary adoption order may be afforded full faith and credit, consistent with Section 224.5, the court shall thereafter order a hearing to finalize the adoption be set upon the filing of the adoption petition. The prospective tribal customary adoptive parents and the child who is the subject of the tribal customary adoption petition shall appear before the court for the finalization hearing. The court shall thereafter issue an order of adoption pursuant to Section 366.24.

(3) If a child who is the subject of a finalized tribal customary adoption shows evidence of a developmental disability or mental illness as a result of conditions existing before the tribal customary adoption to the extent that the child cannot be relinquished to a licensed adoption agency on the grounds that the child is considered unadoptable, and of which condition the tribal customary adoptive parent or parents had no knowledge or notice before the entry of the tribal customary adoption order, a petition setting forth those facts may be filed by the tribal customary adoptive parent or parents with the juvenile court that granted the tribal customary adoption petition. If these facts are proved to the satisfaction of the juvenile court, it may make

an order setting aside the tribal customary adoption order. The set aside petition shall be filed within five years of the issuance of the tribal customary adoption order. The court clerk shall immediately notify the child's tribe and the department in Sacramento of the petition within 60 days after the notice of filing of the petition. The department shall file a full report with the court and shall appear before the court for the purpose of representing the child. Whenever a final decree of tribal customary adoption has been vacated or set aside, the child shall be returned to the custody of the county in which the proceeding for tribal customary adoption was finalized. The biological parent or parents of the child may petition for return of custody. The disposition of the child after the court has entered an order to set aside a tribal customary adoption shall include consultation with the child's tribe.

(f) At the beginning of any proceeding pursuant to this section, if the child or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) In accordance with subdivision (c) of Section 317, if a child before the court is without counsel, the court shall appoint counsel unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the child and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the child, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for a period of time not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) (1) At all proceedings under this section, the court shall consider the wishes of the child and shall act in the best interests of the child.

(2) In accordance with Section 349, the child shall be present in court if the child or the child's counsel so requests or the court so orders. If the child is 10 years of age or older and is not present at a hearing held pursuant to this section, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire as to the reason why the child is not present.

(3) (A) The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents, if the child's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exists:

(i) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(ii) The child is likely to be intimidated by a formal courtroom setting.

(iii) The child is afraid to testify in front of his or her parent or parents.

(B) After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

(C) The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in this subdivision.

(i) (1) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the child, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making the order, the juvenile court shall have no power to set aside, change, or modify it, except as provided in paragraph (2), but nothing in this section shall be construed to limit the right to appeal the order.

(2) A tribal customary adoption order evidencing that the Indian child has been the subject of a tribal customary adoption shall be afforded full faith and credit and shall have the same force and effect as an order of adoption authorized by this section. The rights and obligations of the parties as to the matters determined by the Indian child's tribe shall be binding on all parties. A court shall not order compliance with the order absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith, in family mediation services of the court or dispute resolution through the tribe regarding the conflict, prior to the filing of the enforcement action.

(3) A child who has not been adopted after the passage of at least three years from the date the court terminated parental rights and for whom the court has determined that adoption is no longer the permanent plan may petition the juvenile court to reinstate parental rights pursuant to the procedure prescribed by Section 388. The child may file the petition prior to the expiration of this three-year period if the State Department of Social Services, county adoption agency, or licensed adoption agency that is responsible for custody and supervision of the child as described in subdivision (j) and the child stipulate that the child is no longer likely to be adopted. A child over 12 years of age shall sign the petition in the absence of a showing of good cause as to why the child could not do so. If it appears that the best interests of the child may be promoted by reinstatement of parental rights, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the social worker or probation officer and to the child's attorney of record, or, if there is no attorney of record for the child, to the child, and the child's tribe, if applicable, by means prescribed by subdivision (c) of Section 297. The court shall order the child or the social worker or probation officer to give prior notice of the hearing to the child's former parent or parents whose parental rights were terminated in the manner prescribed by subdivision (f)

of Section 294 where the recommendation is adoption. The juvenile court shall grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interest. If the court reinstates parental rights over a child who is under 12 years of age and for whom the new permanent plan will not be reunification with a parent or legal guardian, the court shall specify the factual basis for its findings that it is in the best interest of the child to reinstate parental rights. This subdivision is intended to be retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(j) If the court, by order or judgment, declares the child free from the custody and control of both parents, or one parent if the other does not have custody and control, or declares the child eligible for tribal customary adoption, the court shall at the same time order the child referred to the State Department of Social Services, county adoption agency, or licensed adoption agency for adoptive placement by the agency. However, except in the case of a tribal customary adoption where there is no termination of parental rights, a petition for adoption may not be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services, county adoption agency, or licensed adoption agency shall be responsible for the custody and supervision of the child and shall be entitled to the exclusive care and control of the child at all times until a petition for adoption or tribal customary adoption is granted, except as specified in subdivision (n). With the consent of the agency, the court may appoint a guardian of the child, who shall serve until the child is adopted.

(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(*l*) (1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if the party is present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21, 366.22, and 366.25 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

(m) Except for subdivision (j), this section shall also apply to minors adjudged wards pursuant to Section 727.31.

(n) (1) Notwithstanding Section 8704 of the Family Code or any other provision of law, the court, at a hearing held pursuant to this section or anytime thereafter, may designate a current caretaker as a prospective adoptive parent if the child has lived with the caretaker for at least six months, the caretaker currently expresses a commitment to adopt the child, and the caretaker has taken at least one step to facilitate the adoption process. In determining whether to make that designation, the court may take into consideration whether the caretaker is listed in the preliminary assessment prepared by the county department in accordance with subdivision (i) of Section 366.21 as an appropriate person to be considered as an adoptive parent for the child and the recommendation of the State Department of Social Services, county adoption agency, or licensed adoption agency.

(2) For purposes of this subdivision, steps to facilitate the adoption process include, but are not limited to, the following:

(A) Applying for an adoption home study.

(B) Cooperating with an adoption home study.

(C) Being designated by the court or the adoption agency as the adoptive family.

(D) Requesting de facto parent status.

(E) Signing an adoptive placement agreement.

(F) Engaging in discussions regarding a postadoption contact agreement.

(G) Working to overcome any impediments that have been identified by the State Department of Social Services, county adoption agency, or licensed adoption agency.

(H) Attending classes required of prospective adoptive parents.

(3) Prior to a change in placement and as soon as possible after a decision is made to remove a child from the home of a designated prospective adoptive parent, the agency shall notify the court, the designated prospective adoptive parent or the current caretaker, if that caretaker would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of this notice, the child's attorney, and the child, if the child is 10 years of age or older, of the proposal in the manner described in Section 16010.6.

(A) Within five court days or seven calendar days, whichever is longer, of the date of notification, the child, the child's attorney, or the designated prospective adoptive parent may file a petition with the court objecting to the proposal to remove the child, or the court, upon its own motion, may set a hearing regarding the proposal. The court may, for good cause, extend the filing period. A caretaker who would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of the notice of proposed removal of the child may file, together with the petition under this subparagraph, a petition for an order designating the caretaker as a prospective adoptive parent for purposes of this subdivision.

(B) A hearing ordered pursuant to this paragraph shall be held as soon as possible and not later than five court days after the petition is filed with the court or the court sets a hearing upon its own motion, unless the court for good cause is unable to set the matter for hearing five court days after the petition is filed, in which case the court shall set the matter for hearing as soon as possible. At the hearing, the court shall determine whether the caretaker has met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1), and whether the proposed removal of the child from the home of the designated prospective adoptive parent is in the child's best interest, and the child may not be removed from the home of the designated prospective adoptive parent unless the court finds that removal is in the child's best interest. If the court determines that the caretaker did not meet the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice of proposed removal of the child, the petition objecting to the proposed removal filed by the caretaker shall be dismissed. If the caretaker was designated as a prospective adoptive parent prior to this hearing, the court shall inquire into any progress made

by the caretaker towards the adoption of the child since the caretaker was designated as a prospective adoptive parent.

(C) A determination by the court that the caretaker is a designated prospective adoptive parent pursuant to paragraph (1) or subparagraph (B) does not make the caretaker a party to the dependency proceeding nor does it confer on the caretaker any standing to object to any other action of the department, county adoption agency, or licensed adoption agency, unless the caretaker has been declared a de facto parent by the court prior to the notice of removal served pursuant to paragraph (3).

(D) If a petition objecting to the proposal to remove the child is not filed, and the court, upon its own motion, does not set a hearing, the child may be removed from the home of the designated prospective adoptive parent without a hearing.

(4) Notwithstanding paragraph (3), if the State Department of Social Services, county adoption agency, or licensed adoption agency determines that the child must be removed from the home of the caretaker who is or may be a designated prospective adoptive parent immediately, due to a risk of physical or emotional harm, the agency may remove the child from that home and is not required to provide notice prior to the removal. However, as soon as possible and not longer than two court days after the removal, the agency shall notify the court, the caretaker who is or may be a designated prospective adoptive parent, the child's attorney, and the child, if the child is 10 years of age or older, of the removal. Within five court days or seven calendar days, whichever is longer, of the date of notification of the removal, the child, the child's attorney, or the caretaker who is or may be a designated prospective adoptive parent may petition for, or the court on its own motion may set, a noticed hearing pursuant to paragraph (3). The court may, for good cause, extend the filing period.

(5) Except as provided in subdivision (b) of Section 366.28, an order by the court issued after a hearing pursuant to this subdivision shall not be appealable.

(6) Nothing in this section shall preclude a county child protective services agency from fully investigating and responding to alleged abuse or neglect of a child pursuant to Section 11165.5 of the Penal Code.

(7) The Judicial Council shall prepare forms to facilitate the filing of the petitions described in this subdivision, which shall become effective on January 1, 2006.

(o) The implementation and operation of the amendments to paragraph (3) of subdivision (c) and subparagraph (A) of paragraph (4) of subdivision (c) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 24. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption, tribal customary adoption, adoption of a nonminor dependent pursuant to subdivision (f) of Section 366.31, or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child or nonminor

dependent until the child or nonminor dependent is adopted or the legal guardianship is established, except as provided for in Section 366.29 or, on and after January 1, 2012, Section 366.32. The status of the child or nonminor dependent shall be reviewed every six months to ensure that the adoption or legal guardianship is completed as expeditiously as possible. When the adoption of the child or nonminor dependent has been granted, or in the case of a tribal customary adoption, when the tribal customary adoption order has been afforded full faith and credit and the petition for adoption has been granted, the court shall terminate its jurisdiction over the child or nonminor dependent. Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least six months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held either in the juvenile court that retains jurisdiction over the guardianship as authorized by Section 366.4 or the juvenile court in the county where the guardian and child currently reside, based on the best interests of the child, unless the termination is due to the emancipation or adoption of the child. The juvenile court having jurisdiction over the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing. Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department having jurisdiction or jointly with the county department where the guardian and child currently reside to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable, the report shall also identify recommended family maintenance or reunification services to maintain the legal guardianship and set forth a plan for providing those services. If the petition to terminate legal

guardianship is granted, either juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the legal guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption or, for an Indian child, tribal customary adoption, may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services if it is acting as an adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child or, on and after January 1, 2012, nonminor dependent is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child or, on and after January 1, 2012, nonminor dependent for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

(1) Upon the request of the child's parents or legal guardians.

(2) Upon the request of the child or, on and after January 1, 2012, nonminor dependent.

(3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, 366.25, 366.26, or subdivision (h).

(4) It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision (g), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

(1) The continuing necessity for, and appropriateness of, the placement.

(2) Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older and has been in out-of-home placement for six months or longer, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(3) The continuing appropriateness and extent of compliance with the permanent plan for the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer and individuals who are important to the child and efforts to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(4) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts either to return the child to the safe home of the parent or to complete whatever steps are necessary to finalize the permanent placement of the child. If the reviewing body determines that a second period of reunification services is in the child's best interests, and that there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision (f), the specific reunification services required to effect the child's return to a safe home shall be described.

(5) Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

(6) The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need

for, and progress in providing, the assistance and services described in Section 391.

(7) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

(8) The likely date by which the child may be returned to, and safely maintained in, the home, placed for adoption, legal guardianship, in another planned permanent living arrangement, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.

(9) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, the frequency and nature of the visits between siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

The factors the court may consider as indicators of the nature of the child's sibling relationships include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(10) For a child who is 16 years of age or older, and, effective January 1, 2012, for a nonminor dependent, the services needed to assist the child or nonminor dependent to make the transition from foster care to independent living.

The reviewing body shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

(f) Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the

parent or parents up to a period of six months, and family maintenance services, as needed for an additional six months in order to return the child to a safe home environment. On and after January 1, 2012, this subdivision shall not apply to the parents of a nonminor dependent.

(g) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, or, for an Indian child for whom parental rights are not being terminated and a tribal customary adoption is being considered, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(h) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the county adoption agency, or the department when it is acting as an adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in long-term foster care, without holding a hearing pursuant to Section 366.26. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26.

(i) If, as authorized by subdivision (h), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, tribal customary adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. At the request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order adoption of the nonminor dependent pursuant to subdivision (f) of Section 366.31.

(j) The implementation and operation of the amendments to subdivision (e) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(k) The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

SEC. 25. Section 366.31 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 366.31 is added to the Welfare and Institutions Code, to read:

366.31. (a) If a review hearing is the last review hearing to be held before the minor attains 18 years of age, the court shall ensure all of the following:

(1) The minor's case plan includes a plan for the minor to satisfy one or more of the participation conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, so that the minor is eligible to remain in foster care as a nonminor dependent.

(2) The minor has been informed of his or her right to seek termination of dependency jurisdiction pursuant to Section 391, and understands the potential benefits of continued dependency.

(3) The minor is informed of his or her right to have dependency reinstated pursuant to subdivision (e) of Section 388, and understands the potential benefits of continued dependency.

(b) At the review hearing that occurs in the six-month period prior to the minor's attaining 18 years of age, and at every subsequent review hearing for the nonminor dependent, as described in subdivision (v) of Section 11400, the report shall describe all of the following:

(1) The minor's and nonminor's plans to remain in foster care and plans to meet one or more of the participation conditions as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403 to continue to receive AFDC-FC benefits as a nonminor dependent.

(2) The efforts made and assistance provided to the minor and nonminor by the social worker or the probation officer so that the minor and nonminor will be able to meet the participation conditions.

(3) Efforts toward completing the items described in paragraph (2) of subdivision (e) of Section 391.

(c) The reviews conducted pursuant to this section for any nonminor dependent shall be conducted in a manner that respects the nonminor's status as a legal adult, focused on the goals and services described in the youth's transitional independent living case plan, as described in subdivision (y) of Section 11400, including efforts made to maintain connections with caring and permanently committed adults, and attended, as appropriate, by additional participants invited by the nonminor dependent.

(d) For a nonminor dependent whose case plan is continued court-ordered family reunification services pursuant to Section 361.6, the court shall consider whether the nonminor dependent may safely reside in the home of the parent or guardian. If the nonminor cannot reside safely in the home of the parent or guardian, or, if it is not in the nonminor dependent's best interest to reside in the home of the parent or guardian, the court must consider whether to continue or terminate reunification services for the parent or legal guardian.

(1) The review report shall include a discussion of all of the following:

(A) Whether foster care placement continues to be necessary and appropriate.

(B) The likely date by which the nonminor dependent may reside safely in the home of the parent or guardian or will achieve independence.

(C) Whether the parent or guardian and nonminor dependent were actively involved in the development of the case plan.

(D) Whether the social worker or probation officer has provided reasonable services designed to aid the parent or guardian to overcome the problems that led to the initial removal of the nonminor dependent.

(E) The extent of progress the parents or guardian have made toward alleviating or mitigating the cases necessitating placement in foster care.

(F) Whether the nonminor dependent and parent, parents, or guardian are in agreement with the continuation of reunification services.

(G) Whether continued reunification services are in the best interest of the nonminor dependent.

(H) Whether there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing date.

(I) The efforts to maintain the nonminor's connections with caring and permanently committed adults.

(J) The agency's compliance with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the nonminor's permanent plan and prepare the nonminor dependent for independence.

(K) The progress in providing the information and documents to the nonminor dependent as described in Section 391.

(2) The court shall inquire about the progress being made to provide a permanent home for the nonminor, shall consider the safety of the nonminor dependent, and shall determine all of the following:

(A) The continuing necessity for, and appropriateness of, the placement.

(B) Whether the agency has made reasonable efforts to maintain relationships between the nonminor dependent and individuals who are important to the nonminor dependent.

(C) The extent of the agency's compliance with the case plan in making reasonable efforts, or, in the case of an Indian child, active efforts as described in Section 361.7, to create a safe home of the parent or guardian for the nonminor to reside in or to complete whatever steps are necessary to finalize the permanent placement of the nonminor dependent.

(D) The extent of the agency's compliance with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the youth's permanent plan and prepare the nonminor dependent for independence.

(E) The adequacy of services provided to the parent or guardian and to the nonminor dependent. The court shall consider the progress in providing the information and documents to the nonminor dependent as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

(F) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

(G) The likely date by which the nonminor dependent may safely reside in the home of the parent or guardian or, if the court is terminating reunification services, the likely date by which it is anticipated the nonminor dependent will achieve independence, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.

(H) Whether the agency has made reasonable efforts as required in subparagraph (D) of paragraph (1) of subdivision (a) of Section 366 to establish or maintain the nonminor dependent's relationship with his or her siblings who are under the juvenile court's jurisdiction.

(I) The services needed to assist the nonminor dependent to make the transition from foster care to independent living.

(J) Whether or not reasonable efforts to make and finalize a permanent placement for the nonminor have been made.

(e) For a nonminor dependent who is no longer receiving court-ordered family reunification services and is in a permanent plan of planned permanent living arrangement, at the review hearing held every six months pursuant to subdivision (d) of Section 366.3, the reviewing body shall inquire about the progress being made to provide permanent connections with caring, committed adults for the nonminor dependent, shall consider the safety of the nonminor, shall consider the Transitional Independent Living Case Plan, and shall determine all of the following:

(1) The continuing necessity for, and appropriateness of, the placement.

(2) The continuing appropriateness and extent of compliance with the permanent plan for the nonminor dependent, including efforts to identify and maintain relationships with individuals who are important to the nonminor dependent.

(3) The extent of the agency's compliance with the nonminor dependent's Transitional Independent Living Case Plan, including whether or not reasonable efforts have been made to make and finalize the youth's permanent plan and prepare the nonminor dependent for independence.

(4) Whether a prospective adoptive parent has been identified and assessed as appropriate for the nonminor dependent's adoption under this section, whether the prospective adoptive parent has been informed about the terms of the written negotiated adoption assistance agreement pursuant to Section 16120, and whether adoption should be ordered as the nonminor dependent's permanent plan. If nonminor dependent adoption is ordered as the nonminor dependent's permanent plan, a hearing pursuant to subdivision (f) shall be held within 60 days. When the court orders a hearing pursuant to subdivision (f), it shall direct the agency to prepare a report that shall include the provisions of paragraph (5) of subdivision (f).

(5) For the nonminor dependent who is an Indian child, whether, in consultation with the nonminor's tribe, the nonminor should be placed for tribal customary adoption.

(6) The adequacy of services provided to the nonminor dependent. The court shall consider the progress in providing the information and documents to the nonminor dependent as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

(7) The likely date by which it is anticipated the nonminor dependent will achieve adoption or independence.

(8) Whether the agency has made reasonable efforts as required in subparagraph (D) of paragraph (1) of subdivision (a) of Section 366 to establish or maintain the nonminor dependent's relationship with his or her siblings who are under the juvenile court's jurisdiction.

(9) The services needed to assist the nonminor dependent to make the transition from foster care to independent living.

(f) (1) At a hearing to consider a permanent plan of adoption for a nonminor dependent, the court shall read and consider the report in paragraph (5) and receive other evidence that the parties may present. A copy of the executed negotiated agreement shall be attached to the report. If the court finds pursuant to this section that nonminor dependent adoption is the appropriate permanent plan, it shall make findings and orders to do the following:

(A) Approve the adoption agreement and declare the nonminor dependent is the adopted child of the adoptive parent, and that the nonminor dependent and adoptive parents agree to assume toward each other the legal relationship of parents and child and to have all of the rights and be subject to all of the duties and responsibilities of that relationship.

(B) Declare that the birth parents of the nonminor dependent are, from the time of the adoption, relieved of all parental duties toward, and responsibility for, the adopted nonminor dependent and have no rights over the adopted nonminor dependent.

(2) If the court finds that the nonminor dependent and the prospective adoptive parent have mutually consented to the adoption, the court may enter the adoption order after it determines all of the following:

(A) Whether the notice was given as required by law.

(B) Whether the nonminor dependent and prospective adoptive parent are present for the hearing.

(C) Whether the court has read and considered the assessment prepared by the social worker or probation officer.

(D) Whether the court considered the wishes of the nonminor dependent.

(E) If the nonminor dependent is eligible, the prospective adoptive parent has signed the negotiated adoption assistance agreement pursuant to subdivision (g) of Section 16120, and whether a copy of the executed negotiated agreement is attached to the report.

(F) Whether the adoption is in the best interest of the nonminor dependent.

(3) If the court orders the establishment of the nonminor dependent adoption, it shall dismiss dependency or transitional jurisdiction.

(4) If the court does not order the establishment of the nonminor dependent adoption, the nonminor dependent shall remain in a planned

permanent living arrangement subject to periodic review of the juvenile court pursuant to this section.

(5) At least 10 calendar days before the hearing, the social worker or probation officer shall file a report with the court and provide a copy of the report to all parties. The report shall describe the following:

(A) Whether or not the nonminor dependent has any developmental disability and whether the proposed adoptive parent is suitable to meet the needs of the nonminor dependent.

(B) The length and nature of the relationship between the prospective adoptive parent and the nonminor dependent, including whether the prospective adoptive parent has been determined to have been established as the nonminor's permanent connection.

(C) Whether the nonminor dependent has been determined to be eligible for the adoption assistance program, and if so, whether the prospective adoptive parent has signed the negotiated adoption assistance agreement pursuant to subdivision (g) of Section 16120.

(D) Whether a copy of the executed negotiated agreement is attached to the report.

(E) Whether criminal background clearances were completed for the prospective adoptive parent as required by Section 671(a)(2)(A) and (c) of Title 42 of the United States Code.

(F) Whether the prospective adoptive parent who is married and not legally separated from that spouse has the consent of the spouse, provided that the spouse is capable of giving that consent.

(G) Whether the adoption of the nonminor dependent is in the best interests of the nonminor dependent and the prospective adoptive parent.

(H) Whether the nonminor dependent and the prospective adoptive parent have mutually consented to the adoption.

(6) The social worker or probation officer shall serve written notice of the hearing in the manner and to the persons set forth in Section 295, including the prospective adoptive parent or parents, except that notice to the nonminor's birth parents is not required.

(7) Nothing in this section shall prevent a nonminor dependent from filing an adoption petition pursuant to Section 9300 of the Family Code.

(g) Each licensed foster family agency shall submit reports for each nonminor dependent in its care to the court concerning the continuing appropriateness and extent of compliance with the nonminor dependent's permanent plan, the extent of compliance with the Transitional Independent Living Case Plan, and the type and adequacy of services provided to the nonminor dependent. The report shall document that the nonminor has received all the information and documentation described in paragraph (2) of subdivision (e) of Section 391. If the court is considering terminating dependency jurisdiction for a nonminor dependent it shall first hold a hearing pursuant to Section 391.

SEC. 27. Section 366.32 is added to the Welfare and Institutions Code, to read:

366.32. (a) With respect to a nonminor dependent, as defined in subdivision (v) of Section 11400, who has a permanent plan of long-term foster care that was ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26, the court may continue jurisdiction of the nonminor as a nonminor dependent of the juvenile court or may dismiss dependency jurisdiction pursuant to Section 391.

(b) If the court continues dependency jurisdiction of the nonminor as a nonminor dependent of the juvenile court, the court shall order the development of a planned permanent living arrangement under a mutual agreement, as described in subdivision (u) of Section 11400, which may include continued placement with the current caregiver or another licensed or approved caregiver or in a supervised independent living placement, as defined in subdivision (w) of Section 11400, consistent with the youth's Transitional Independent Living Case Plan. At the request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order nonminor dependent adoption pursuant to subdivision (f) of Section 366.31 as the nonminor dependent's permanent plan.

(c) If the court terminates its dependency jurisdiction over a nonminor dependent pursuant to subdivision (a), it shall retain general jurisdiction over the youth pursuant to Section 303. If the court has dismissed dependency jurisdiction pursuant to subdivision (d) of Section 391, the nonminor, who has not attained 21 years of age, may subsequently file a petition pursuant to subdivision (e) of Section 388 to have dependency jurisdiction resumed and the court may vacate its previous order dismissing dependency jurisdiction over the nonminor dependent.

SEC. 28. Section 369.5 of the Welfare and Institutions Code is amended to read:

369.5. (a) If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. On or before July 1, 2000, the Judicial Council shall adopt rules of court and develop appropriate forms for implementation of this section.

(b) (1) In counties in which the county child welfare agency completes the request for authorization for the administration of psychotropic medication, the agency is encouraged to complete the request within three business days of receipt from the physician of the information necessary to fully complete the request.

(2) Nothing in this subdivision is intended to change current local practice or local court rules with respect to the preparation and submission of requests for authorization for the administration of psychotropic medication.

(c) Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the child, or shall, upon a request by the parent, the legal guardian, or the child's attorney, or upon its own motion, set the matter for hearing.

(d) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

(e) Nothing in this section is intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

(f) This section shall not apply to nonminor dependents, as defined in subdivision (v) of Section 11400.

SEC. 29. Section 375 of the Welfare and Institutions Code is amended to read:

375. (a) Whenever a petition is filed in the juvenile court of a county other than the residence of the person named in the petition, or whenever, subsequent to the filing of a petition in the juvenile court of the county where that minor resides, the residence of the person who would be legally entitled to the custody of the minor were it not for the existence of a court order issued pursuant to this chapter is changed to another county, the entire case may be transferred to the juvenile court of the county where that person then resides at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction over the minor, and the juvenile court of the county where that person then resides shall take jurisdiction of the case upon the receipt and filing of the finding of the facts upon which the court exercised its jurisdiction and an order transferring the case.

(b) (1) Whenever a minor under the dependency jurisdiction or transition jurisdiction of the juvenile court attains 18 years of age and remains under the court's jurisdiction as a nonminor dependent, as defined in subdivision (v) of Section 11400, the residence of the nonminor dependent may be changed to another county if the court finds that the nonminor dependent meets the conditions of subdivision (f) of Section 17.1. The entire case may be transferred to the juvenile court of the county where the nonminor dependent then resides at any time after the court has made a finding of the facts upon which the court has exercised its jurisdiction over the nonminor. The juvenile court of the county where a nonminor then resides shall take jurisdiction of the case upon the receipt and filing of that finding and an order transferring the case.

(2) Whenever a petition pursuant to subdivision (e) of Section 388 is submitted in the juvenile court of a county other than the county that retained

general jurisdiction under subdivision (b) of Section 303 of the nonminor dependent, as defined in subdivision (v) of Section 11400, the residence of the nonminor dependent may be changed to another county if the nonminor dependent meets the conditions of subdivision (g) of Section 17.1. The entire case may be transferred to the juvenile court of the county where the nonminor dependent then resides at any time after the county that retained general jurisdiction has granted the petition and resumed dependency jurisdiction, or has assumed or resumed transition jurisdiction. The juvenile court of the county where the nonminor then resides shall take jurisdiction of the case upon the receipt and filing of the finding of the facts upon which the court exercised its jurisdiction over the nonminor and an order transferring the case.

SEC. 30. Section 388 of the Welfare and Institutions Code is amended to read:

388. (a) (1) Any parent or other person having an interest in a child who is a dependent child of the juvenile court or a nonminor dependent as defined in subdivision (v) of Section 11400, or the child himself or herself or the nonminor dependent through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child or the nonminor dependent, shall state the petitioner's relationship to or interest in the child or the nonminor dependent and shall set forth in concise language any change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.

(2) When any party, including a child who is a dependent of the juvenile court, petitions the court prior to an order terminating parental rights, to modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or to modify any orders related to custody or visitation of the subject child, and the court orders a hearing pursuant to subdivision (d), the court shall modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or any orders related to the custody or visitation of the child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, only if the court finds by clear and convincing evidence that the proposed change is in the best interests of the child.

(b) Any person, including a child or the nonminor dependent who is a dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent

plan for the dependent child or make any other request for an order which may be shown to be in the best interest of the dependent child. The court may appoint a guardian ad litem to file the petition for the dependent child asserting the sibling relationship if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:

(1) Through which parent he or she is related to the dependent child.

(2) Whether he or she is related to the dependent child by blood, adoption, or affinity.

(3) The request or order that the petitioner is seeking.

(4) Why that request or order is in the best interest of the dependent child.

(c) (1) Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section 361.5, or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5 only if one of the following conditions exists:

(A) It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services.

(B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent's or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

(2) In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors that include, but are not limited to, the parent's or guardian's incarceration, institutionalization, or participation in a court-ordered residential substance abuse treatment program.

(3) The court shall terminate reunification services during the above-described time periods only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.

(4) Any party, including a nonminor dependent, as defined in subdivision (v) of Section 11400, may petition the court prior to the review hearing set pursuant to subdivision (d) of Section 366.31 to terminate the continuation of court-ordered family reunification services for a nonminor dependent who has attained 18 years of age. The court shall terminate family reunification services to the parent or guardian if the nonminor dependent or parent or guardian are not in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent.

(5) If the court terminates reunification services, it shall order that a hearing pursuant to Section 366.26 be held within 120 days. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent. The court may order a nonminor dependent who is otherwise eligible to AFDC-FC benefits pursuant to Section 11403 to remain in a planned, permanent living arrangement.

(d) If it appears that the best interests of the child or the nonminor dependent may be promoted by the proposed change of order, modification of reunification services, custody, or visitation orders concerning a child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, recognition of a sibling relationship, termination of jurisdiction, or clear and convincing evidence supports revocation or termination of court-ordered reunification services, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the persons and in the manner prescribed by Section 386, and, in those instances in which the manner of giving notice is not prescribed by those sections, then in the manner the court prescribes.

(e) (1) On and after January 1, 2012, a nonminor who attained 18 years of age while subject to an order for foster care placement and, commencing January 1, 2012, who has not attained 19 years of age, or, commencing January 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years of age, for whom the court has dismissed dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452, but has retained general jurisdiction under subdivision (b) of Section 303, or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450. The petition shall be filed within the period that the nonminor is of the age described in this paragraph. If the nonminor has completed the voluntary reentry agreement, as described in subdivision (z) of Section 11400, with the placing agency, the agency shall file the petition on behalf of the nonminor within 15 judicial days of the date the agreement was signed unless the nonminor elects to file the petition at an earlier date.

(2) (A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) He or she was previously under juvenile court jurisdiction, subject to an order for foster care placement when he or she attained 18 years of age, and has not attained the age limits described in paragraph (1).

(ii) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(iii) He or she wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

(3) The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and he or she declines to appear and elects a telephonic appearance.

(4) Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department to prepare a report for the court addressing whether the nonminor intends to satisfy at least one of the criteria set forth in subdivision (b) of Section 11403. When the recommendation is for the nonminor dependent to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5, may be used by the placing agency to determine appropriate placement options for the nonminor. The existence of a criminal conviction is not a bar to eligibility for reentry or resumption of dependency jurisdiction or the assumption or resumption of transition jurisdiction over a nonminor.

(5) (A) The court shall resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450, and order that the nonminor's placement and care be under the responsibility of the county child welfare services department, the probation department, or tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

(i) The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age.

(ii) The nonminor has not attained the age limits described in paragraph (1).

(iii) Reentry and remaining in foster care are in the nonminor's best interests.

(iv) The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b)

of Section 11403, and demonstrates his or her agreement to placement in a supervised setting under the placement and care responsibility of the placing agency and to satisfy the criteria by signing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was filed.

(C) The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan within 60 calendar days from the date the nonminor signed the voluntary reentry agreement as described in subdivision (z) of Section 11400 and submit it to the court for the review hearing under Section 366.31, to be held within 70 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction. In no event shall the review hearing under Section 366.31 be held more than 170 calendar days from the date the nonminor signed the voluntary reentry agreement.

SEC. 30.5. Section 388 of the Welfare and Institutions Code is amended to read:

388. (a) (1) Any parent or other person having an interest in a child who is a dependent child of the juvenile court or a nonminor dependent as defined in subdivision (v) of Section 11400, or the child himself or herself or the nonminor dependent through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child or the nonminor dependent shall state the petitioner's relationship to or interest in the child or the nonminor dependent and shall set forth in concise language any change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.

(2) When any party, including a child who is a dependent of the juvenile court, petitions the court prior to an order terminating parental rights, to modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or to modify any orders related to custody or visitation of the subject child, and the court orders a hearing pursuant to subdivision (d), the court shall modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or any orders related to the custody or visitation of the child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, only if the court finds by clear and convincing evidence that the proposed change is in the best interests of the child.

(b) Any person, including a child or the nonminor dependent who is a dependent of the juvenile court, may petition the court to assert a relationship

as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent plan for the dependent child or make any other request for an order which may be shown to be in the best interest of the dependent child. The court may appoint a guardian ad litem to file the petition for the dependent child asserting the sibling relationship if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:

(1) Through which parent he or she is related to the dependent child.

(2) Whether he or she is related to the dependent child by blood, adoption, or affinity.

(3) The request or order that the petitioner is seeking.

(4) Why that request or order is in the best interest of the dependent child.

(c) (1) Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section 361.5, or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5 only if one of the following conditions exists:

(A) It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services.

(B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent's or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

(2) In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors that include but are not limited to, the parent's or guardian's incarceration, institutionalization, detention by the United States Department of Homeland Security, deportation, or participation in a court-ordered residential substance abuse treatment program.

(3) The court shall terminate reunification services during the above-described time periods only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.

(4) Any party, including a nonminor dependent, as defined in subdivision (v) of Section 11400, may petition the court prior to the review hearing set pursuant to subdivision (d) of Section 366.31 to terminate the continuation of court-ordered family reunification services for a nonminor dependent

who has attained 18 years of age. The court shall terminate family reunification services to the parent or guardian if the nonminor dependent or parent or guardian are not in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent.

(5) If the court terminates reunification services, it shall order that a hearing pursuant to Section 366.26 be held within 120 days. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent. The court may order a nonminor dependent who is otherwise eligible to AFDC-FC benefits pursuant to Section 11403 to remain in a planned, permanent living arrangement.

(d) If it appears that the best interests of the child or the nonminor dependent may be promoted by the proposed change of order, modification of reunification services, custody, or visitation orders concerning a child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, recognition of a sibling relationship, termination of jurisdiction, or clear and convincing evidence supports revocation or termination of court-ordered reunification services, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the persons and in the manner prescribed by Section 386, and, in those instances in which the manner of giving notice is not prescribed by those sections, then in the manner the court prescribes.

(e) (1) On and after January 1, 2012, a nonminor who attained 18 years of age while subject to an order for foster care placement and, commencing January 1, 2012, who has not attained 19 years of age, or, commencing January 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years of age, or as described in Section 10103.5, for whom the court has dismissed dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452, but has retained general jurisdiction under subdivision (b) of Section 303, or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450. The petition shall be filed within the period that the nonminor is of the age described in this paragraph. If the nonminor has completed the voluntary reentry agreement, as described in subdivision (z) of Section 11400, with the placing agency, the agency shall file the petition on behalf of the nonminor within 15 judicial days of the date the agreement was signed unless the nonminor elects to file the petition at an earlier date.

(2) (A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general

jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) He or she was previously under juvenile court jurisdiction, subject to an order for foster care placement when he or she attained 18 years of age, and has not attained the age limits described in paragraph (1).

(ii) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(iii) He or she wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

(3) The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and he or she declines to appear and elects a telephonic appearance.

(4) Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department to prepare a report for the court addressing whether the nonminor intends to satisfy at least one of the criteria set forth in subdivision (b) of Section 11403. When the recommendation is for the nonminor dependent to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5, may be used by the placing agency to determine appropriate placement options for the nonminor. The existence of a criminal conviction is not a bar to eligibility for reentry or resumption of dependency jurisdiction or the assumption or resumption of transition jurisdiction over a nonminor.

(5) (A) The court shall resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450, and order that the nonminor's placement and care be under the responsibility of the county child welfare services department, the probation department, tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

(i) The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age.

(ii) The nonminor has not attained the age limits described in paragraph (1).

(iii) Reentry and remaining in foster care are in the nonminor's best interests.

(iv) The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and demonstrates his or her agreement to placement in a supervised setting under the placement and care responsibility of the placing agency and to satisfy the criteria by signing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was filed.

(C) The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan within 60 calendar days from the date the nonminor signed the voluntary reentry agreement as described in subdivision (z) of Section 11400 and submit it to the court for the review hearing under Section 366.31, to be held within 70 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction. In no event shall the review hearing under Section 366.3 be held more than 170 calendar days from the date the nonminor signed the voluntary reentry agreement.

SEC. 31. Section 727.25 is added to the Welfare and Institutions Code, to read:

727.25. (a) Notwithstanding any other law, the court may order family reunification services to continue for a nonminor dependent, as defined in subdivision (v) of Section 11400, if all parties are in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent, and there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing. The continuation of court-ordered family reunification services shall not exceed the timeframes in Section 727.3.

(b) If all parties are not in agreement or the court finds there is not a substantial probability that the nonminor will be able to return and safely reside in the home of the parent or guardian, the court shall terminate reunification services to the parents or guardian.

(c) The continuation of court-ordered family reunification services under this section does not affect the nonminor's eligibility for extended foster care benefits as a nonminor dependent as defined in subdivision (v) of Section 11400. The reviews conducted for any nonminor dependent shall be pursuant to Section 366.31.

(d) The extension of reunification services only applies to youth under the delinquency jurisdiction of the court.

SEC. 32. Section 903.4 of the Welfare and Institutions Code is amended to read:

903.4. (a) The Legislature finds that even though Section 903 establishes parental liability for the cost of the care, support, and maintenance of a child in a county institution or other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court, the collection of child support for juveniles who have been placed in out-of-home care as dependents or wards of the juvenile court under Sections 300, 601, and 602 has not been pursued routinely and effectively.

It is the purpose of this section to substantially increase income to the state and to counties through court-ordered parental reimbursement for the support of juveniles who are in out-of-home placement. In this regard, the Legislature finds that the costs of collection will be offset by the additional income derived from the increased effectiveness of the parental support program.

(b) In any case in which a child is or has been declared a dependent child or a ward of the court pursuant to a Section 300, 601, or 602, the juvenile court shall order any agency which has expended moneys or incurred costs on behalf of the child pursuant to a detention or placement order of the juvenile court, to submit to the local child support agency, within 30 days, in the form of a declaration, a statement of its costs and expenses for the benefit, support, and maintenance of the child.

(c) (1) The local child support agency may petition the superior court to issue an order to show cause why an order should not be entered for continuing support and reimbursement of the costs of the support of any minor described in Section 903.

Any order entered as a result of the order to show cause shall be enforceable in the same manner as any other support order entered by the courts of this state at the time it becomes due and payable.

In any case in which the local child support agency has received a declaration of costs or expenses from any agency, the declaration shall be deemed an application for assistance pursuant to Section 17400 of the Family Code.

(2) The order to show cause shall inform the parent of all of the following facts:

(A) He or she has been sued.

(B) If he or she wishes to seek the advice of an attorney in this matter, it should be done promptly so that his or her financial declaration and written response, if any, will be filed on time.

(C) He or she has a right to appear personally and present evidence in his or her behalf.

(D) His or her failure to appear at the order to show cause hearing, personally or through his or her attorney, may result in an order being entered against him or her for the relief requested in the petition.

(E) Any order entered could result in the garnishment of wages, taking of money or property to enforce the order, or being held in contempt of court.

(F) Any party has a right to request a modification of any order issued by the superior court in the event of a change in circumstances.

(3) Any existing support order shall remain in full force and effect unless the superior court modifies that order pursuant to subdivision (f).

(4) The local child support agency shall not be required to petition the court for an order for continuing support and reimbursement if, in the opinion of the local child support agency, it would not be appropriate to secure such an order. The local child support agency shall not be required to continue collection efforts for any order if, in the opinion of the local child support agency, it would not be appropriate or cost effective to enforce the order pursuant to Section 17552 of the Family Code.

(d) (1) In any case in which an order to show cause has been issued and served upon a parent for continuing support and reimbursement of costs, a completed income and expense declaration shall be filed with the court by the parent; a copy of it shall be delivered to the local child support agency at least five days prior to the hearing on the order to show cause.

(2) Any person authorized by law to receive a parent's financial declaration or information obtained therefrom, who knowingly furnishes the declaration or information to a person not authorized by law to receive it, is guilty of a misdemeanor.

(e) If a parent has been personally served with the order to show cause and no appearance is made by the parent, or an attorney in his or her behalf, at the hearing on the order to show cause, the court may enter an order for the principal amount and continuing support in the amount demanded in the petition.

If the parent appears at the hearing on the order to show cause, the court may enter an order for the amount the court determines the parent is financially able to pay.

(f) The court shall have continuing jurisdiction to modify any order for continuing support entered pursuant to this section.

(g) As used in this section, "parent" includes any person specified in Section 903, the estate of any such person, and the estate of the minor person. "Parent" does not include a minor or nonminor dependent whose minor child receives aid under Section 11401.4.

(h) The local child support agency may contract with another county agency for the performance of any of the duties required by this section.

SEC. 33. Section 903.5 of the Welfare and Institutions Code is amended to read:

903.5. In addition to the requirements of Section 903.4, and notwithstanding any other provision of law, the parent or other person legally liable for the support of a minor, who voluntarily places the minor in 24-hour out-of-home care, shall be liable for the cost of the minor's care, support, and maintenance when the minor receives Aid to Families with Dependent Children-Foster Care (AFDC-FC), Supplemental Security Income-State Supplementary Program (SSI-SSP), or county-only funds. As used in this section, "parent" includes any person specified in Section 903. As used in this section, "parent" does not include a minor or nonminor dependent whose minor child receives aid under Section 11401.4. Whenever the county welfare department or the placing agency determines that a court order

would be advisable and effective, pursuant to Section 17552 of the Family Code, the department or the agency shall notify the local child support agency, or the financial evaluation officer designated pursuant to Section 903.45, who shall proceed pursuant to Section 903.4 or 903.45.

SEC. 34. Section 11253 of the Welfare and Institutions Code is amended to read:

11253. (a) Except as provided in subdivision (b), aid shall not be granted under this chapter to or on behalf of any child who has attained 18 years of age unless all of the following apply:

(1) The child is less than 19 years of age and is attending high school or the equivalent level of vocational or technical training on a full-time basis.

(2) The child can reasonably be expected to complete the educational or training program before his or her 19th birthday.

(b) (1) On and after January 1, 2012, aid shall be granted under this chapter to or on behalf of any nonminor dependent, as defined in subdivision (v) of Section 11400, if the nonminor dependent is placed in the approved home of a relative under the supervision of the county child welfare or probation department or Indian tribe that has entered into an agreement pursuant to Section 10553.1, and the nonminor dependent otherwise is eligible pursuant to Section 11403.

(2) The eligible nonminor dependent shall be exempt from Chapter 4.6 (commencing with Section 10830) of Part 2 governing the statewide fingerprint imaging system.

(c) Notwithstanding any other law, payment of aid under this chapter may be made out of state if the nonminor dependent who is described in subdivision (b) is placed in the approved home of a relative who resides in another state.

SEC. 35. Section 11263.5 of the Welfare and Institutions Code is amended to read:

11263.5. Notwithstanding any other provision of this chapter, a child living with his or her parent, where the parent is a minor or a nonminor dependent, as described in subdivision (v) of Section 11400, and who also is a recipient of foster care pursuant to Article 5 (commencing with Section 11400), is not an eligible child within the meaning of this chapter for the purpose of payment of AFDC benefits other than AFDC-FC benefits.

SEC. 36. Section 11363 of the Welfare and Institutions Code is amended to read:

11363. (a) Aid in the form of state-funded Kin-GAP shall be provided under this article on behalf of any child under 18 years of age and to any eligible youth under 19 years of age as provided in Section 11403, who satisfies all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300, or, effective October 1, 2006, a ward of the juvenile court pursuant to Section 601 or 602.

(2) Has been residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement.

(3) Has had a kinship guardianship established pursuant to Section 360 or 366.26.

(4) Has had his or her dependency jurisdiction terminated after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(b) If the conditions specified in subdivision (a) are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court, after holding a hearing, orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

(c) A child or nonminor former dependent or ward shall be eligible for Kin-GAP payments if he or she meets one of the following age criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a physical or mental disability that warrants the continuation of assistance.

(3) Through December 31, 2011, he or she satisfies the conditions of Section 11403, and on and after January 1, 2012, he or she satisfies the conditions of Section 11403.01.

(4) He or she satisfies the conditions as described in subdivision (d).

(d) Commencing January 1, 2012, state-funded Kin-GAP payments shall continue for youths who have attained 18 years of age and who are under 19 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(e) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP unless the conditions in Section 11403 apply; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of six months of placement with the alternate guardian or coguardian shall not be required if that

alternate guardian or coguardian has been assessed pursuant to Sections 361.3 and 361.4 and the court terminates dependency jurisdiction.

SEC. 37. Section 11364 of the Welfare and Institutions Code is amended to read:

11364. (a) In order to receive payments under this article, the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1, shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement.

(b) The agreement shall specify, at a minimum, all of the following:

(1) The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, and that the amount is subject to any applicable increases pursuant to cost-of-living adjustments established by statute, and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

(2) Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

(3) A procedure by which the relative guardian may apply for additional services, as needed, including the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

(4) That the agreement shall remain in effect regardless of the state of residency of the relative guardian.

(5) The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

(6) For guardianships established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process for obtaining reimbursement of the nonrecurring expenses to be paid.

(c) In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related state-approved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable

rate adjustments. For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar ($200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

(d) Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

(1) For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate as set forth in paragraph (1) of subdivision (g) of Section 11461.

(3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit payments rate structure shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461, without requiring a new agreement.

(4) In addition to the rate paid for a child eligible for a Kin-GAP payment, a specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461, also shall be paid.

(5) In addition to the rate paid for a child eligible for a Kin-GAP payment, a clothing allowance, as set forth in subdivision (f) of Section 11461, also shall be paid.

(6) For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar ($200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

(e) The county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 shall provide the relative guardian with information, in writing, on the availability of the Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also

provide the relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

(f) The county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

(g) Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

SEC. 38. Section 11386 of the Welfare and Institutions Code is amended to read:

11386. Aid shall be provided under this article on behalf of a child under 18 years of age, and to any eligible youth under 19 years of age, as provided in Section 11403, under all of the following conditions:

(a) The child satisfies both of the following requirements:

(1) He or she has been removed from his or her home pursuant to a voluntary placement agreement, or as a result of judicial determination, including being adjudged a dependent child of the court, pursuant to Section 300, or a ward of the court, pursuant to Section 601 or 602, to the effect that continuation in the home would be contrary to the welfare of the child.

(2) He or she has been eligible for federal foster care maintenance payments under Article 5 (commencing with Section 11400) while residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement.

(b) Being returned to the parental home or adopted are not appropriate permanency options for the child.

(c) The child demonstrates a strong attachment to the relative guardian, and the relative guardian has a strong commitment to caring permanently for the child and, with respect to the child who has attained 12 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(d) The child has had a kinship guardianship established pursuant to Section 360 or 366.26.

(e) The child has had his or her dependency jurisdiction terminated pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(f) If the conditions specified in subdivisions (a) through (e), inclusive, are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

(g) A child or nonminor former dependent or ward shall be eligible for Kin-GAP payments if he or she meets one of the following age criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a physical or mental disability that warrants the continuation of assistance.

(3) Through December 31, 2011, he or she satisfies the conditions of Section 11403, and on and after January 1, 2012, he or she satisfies the conditions of Section 11403.01.

(4) He or she satisfies the conditions as described in subdivision (h).

(h) Effective January 1, 2012, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 19 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(i) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP, unless the conditions of Section 11403 apply, provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of six months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3 and Section 361.4 and the court terminates dependency jurisdiction, subject to federal approval of amendments to the state plan.

SEC. 39. Section 11387 of the Welfare and Institutions Code is amended to read:

11387. (a) In order to receive federal financial participation for payments under this article, the county child welfare agency or probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement. The negotiated agreement shall be executed prior to establishment of the guardianship.

(b) The agreement shall specify, at a minimum, all of the following:

(1) The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, that the amount is subject to any applicable increases pursuant to cost-of-living adjustments

established by statute and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

(2) Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

(3) A procedure by which the relative guardian may apply for additional services, as needed, including, but not limited to, the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

(4) The agreement shall provide that it shall remain in effect regardless of the state of residency of the relative guardian.

(5) The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

(6) For a guardianship established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process for obtaining reimbursement of the nonrecurring expenses to be paid.

(c) In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related state-approved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable rate adjustments. For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar ($200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

(d) Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

(1) For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to appeal has passed, issued by a court of competent

jurisdiction in California State Foster Parent Association et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate as set forth in paragraph (1) of subdivision (g) of Section 11461.

(3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit payment rate structure shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461, without requiring a new agreement.

(4) In addition to the rate paid for a child eligible for a Kin-GAP payment, a specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461, shall be paid.

(5) In addition to the rate paid for a child eligible for a Kin-GAP payment, a clothing allowance, as set forth in subdivision (f) of Section 11461, shall be paid.

(6) For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar ($200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

(e) The county child welfare agency or probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 shall provide the relative guardian with information, in writing, on the availability of the federal Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also provide the relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

(f) The county child welfare agency, probation department, or Indian tribe, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

(g) Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

SEC. 40. Section 11391 of the Welfare and Institutions Code is amended to read:

11391. For purposes of this article, the following definitions shall apply:

(a) “Kinship Guardianship Assistance Payments (Kin-GAP)” means the aid provided on behalf of children eligible for federal financial participation

under Section 671(a)(28) of Title 42 of the United States Code in kinship care under the terms of this article.

(b) "Kinship guardian" means a person who meets both of the following criteria:

(1) He or she has been appointed the legal guardian of a dependent child pursuant to Section 366.26 or Section 360 or a ward of the juvenile court pursuant to subdivision (d) of Section 728.

(2) He or she is a relative of the child.

(c) "Relative," subject to federal approval of amendments to the state plan, means any of the following:

(1) An adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(2) An adult who meets the definition of an approved, nonrelated extended family member, as described in Section 362.7.

(3) An adult who is either a member of the Indian child's tribe, or an Indian custodian, as defined in Section 1903(6) of Title 25 of the United States Code.

(4) An adult who is the current foster parent of a child under the juvenile court's jurisdiction, who has established a significant and family-like relationship with the child, and the child and the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1 identify this adult as the child's permanent connection.

(d) "Sibling" means a child related to the identified eligible child by blood, adoption, or affinity through a common legal or biological parent.

SEC. 41. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to meet the child's needs. It shall also include the agency's plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child's family, and the foster parents, in order to meet the child's needs while in foster care, and to reunify the child with the child's family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that

agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) "Group home" means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, or a nondetention licensed residential care home operated by the County of San Mateo with a capacity of up to 25 beds, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(i) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, that shall include a consideration of the safety of the child, a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(j) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(*l*) "Preplacement preventive services" means services that are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents,

stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of these persons even if the marriage was terminated by death or dissolution.

(n) "Nonrelative extended family member" means an adult caregiver who has an established familial or mentoring relationship with the child, as described in Section 362.7.

(o) "Voluntary placement" means an out-of-home placement of a child by (1) the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(p) "Voluntary placement agreement" means a written agreement between either the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(q) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(r) (1) "Transitional housing placement provider" means an organization licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code, to provide transitional housing to foster children at least 16 years of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v). A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(2) Prior to licensure, a provider shall obtain certification from the applicable county, in accordance with Section 16522.1.

(s) "Transitional Housing Program-Plus" means a provider certified by the applicable county, in accordance with subdivision (c) of Section 16522, to provide transitional housing services to former foster youth who have exited the foster care system on or after their 18th birthday.

(t) "Whole family foster home" means a new or existing family home, approved relative caregiver or nonrelative extended family member's home, the home of a nonrelated legal guardian whose guardianship was established

pursuant to Section 360 or 366.26, certified family home, or a host family home placement of a transitional housing placement provider, that provides foster care for a minor or nonminor dependent parent and his or her child, and is specifically recruited and trained to assist the minor or nonminor dependent parent in developing the skills necessary to provide a safe, stable, and permanent home for his or her child. The child of the minor or nonminor dependent parent need not be the subject of a petition filed pursuant to Section 300 to qualify for placement in a whole family foster home.

(u) "Mutual agreement" means any of the following:

(1) A written voluntary agreement of consent for continued placement and care in a supervised setting between a minor or, on and after January 1, 2012, a nonminor dependent, and the county welfare services or probation department or tribal agency responsible for the foster care placement, that documents the nonminor's continued willingness to remain in supervised out-of-home placement under the placement and care of the responsible county, tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1, remain under the jurisdiction of the juvenile court as a nonminor dependent, and report any change of circumstances relevant to continued eligibility for foster care payments, and that documents the nonminor's and social worker's or probation officer's agreement to work together to facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(2) An agreement, as described in paragraph (1), between a nonminor former dependent or ward in receipt of Kin-GAP payments under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), and the agency responsible for the Kin-GAP benefits, provided that the nonminor former dependent or ward satisfies the conditions described in Section 11403.01, or one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. For purposes of this paragraph and paragraph (3), "nonminor former dependent or ward" has the same meaning as described in subdivision (aa).

(3) An agreement, as described in paragraph (1), between a nonminor former dependent or ward in receipt of AFDC-FC payments under subdivision (e) or (f) of Section 11405 and the agency responsible for the AFDC-FC benefits, provided that the nonminor former dependent or ward described in subdivision (e) of Section 11405 satisfies one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and the nonminor described in subdivision (f) of Section 11405 satisfies the secondary school or equivalent training or certificate program conditions described in that subdivision.

(v) "Nonminor dependent" means, on and after January 1, 2012, a foster child, as described in Section 675(8)(B) of Title 42 of the United States Code under the federal Social Security Act who is a current dependent child or ward of the juvenile court, or a nonminor under the transition jurisdiction of the juvenile court, as described in Section 450, who satisfies all of the following criteria:

(1) He or she has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 19 years of age on or after January 1, 2012, not more than 20 years of age on or after January 1, 2013, or not more than 21 years of age on or after January 1, 2014, and as described in Section 10103.5.

(2) He or she is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1.

(3) He or she is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403.

(w) "Supervised independent living placement" means, on and after January 1, 2012, an independent supervised setting, as specified in a nonminor dependent's transitional independent living case plan, in which the youth is living independently, pursuant to Section 472(c)(2) of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

(x) "Supervised independent living setting," pursuant to Section 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec. 672(c)(2)), includes both a supervised independent living placement, as defined in subdivision (w), and a residential housing unit certified by the transitional housing placement provider operating a Transitional Housing Placement-Plus Foster Care program, as described in paragraph (2) of subdivision (a) of Section 16522.1.

(y) "Transitional independent living case plan" means, on or after January 1, 2012, the nonminor dependent's case plan, updated every six months, that describes the goals and objectives of how the nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decisionmaking, the collaborative efforts between the nonminor and the social worker, probation officer, or Indian tribal placing entity and the supportive services as described in the transitional independent living plan (TILP) to ensure active and meaningful participation in one or more of the eligibility criteria described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor's appropriate supervised placement setting, and the nonminor's permanent plan for transition to living independently, which includes maintaining or obtaining permanent connections to caring and committed adults, as set forth in paragraph (16) of subdivision (f) of Section 16501.1.

(z) "Voluntary reentry agreement" means a written voluntary agreement between a former dependent child or ward or a former nonminor dependent, who has had juvenile court jurisdiction terminated pursuant to Section 391, 452 or 607.2, and the county welfare or probation department or tribal placing entity that documents the nonminor's desire and willingness to reenter foster care, to be placed in a supervised setting under the placement and care responsibility of the placing agency, the nonminor's desire, willingness, and ability to immediately participate in one or more of the

conditions of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor's agreement to work collaboratively with the placing agency to develop his or her transitional independent living case plan within 60 days of reentry, the nonminor's agreement to report any changes of circumstances relevant to continued eligibility for foster care payments, and (1) the nonminor's agreement to participate in the filing of a petition for juvenile court jurisdiction as a nonminor dependent pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement and the placing agency's efforts and supportive services to assist the nonminor in the reentry process, or (2) if the nonminor meets the definition of a nonminor former dependent or ward, as described in subdivision (aa), the nonminor's agreement to return to the care and support of his or her former juvenile court-appointed guardian and meet the eligibility criteria for AFDC-FC pursuant to subdivision (e) of Section 11405.

(aa) "Nonminor former dependent or ward" means, on and after January 1, 2012, either of the following:

(1) A nonminor who reached 18 years of age while subject to an order for foster care placement, and for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court.

(2) A nonminor who is over 18 years of age and, while a minor, was a dependent child or ward of the juvenile court when the guardianship was established pursuant to Section 360 or 366.26, or subdivision (d), of Section 728 and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship.

SEC. 42. Section 11402.2 of the Welfare and Institutions Code is amended to read:

11402.2. Recognizing that transitions to independence involve self-initiated changes in placements, it is the intent of the Legislature that regulations developed regarding the approval of the supervised independent living setting, as defined in subdivision (w) of Section 11400, shall ensure continuity of placement and payment while the nonminor dependent is awaiting approval of his or her new supervised independent living setting, in accordance with paragraph (2) of subdivision (c) of Section 1524 of the Health and Safety Code.

SEC. 43. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. (a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. Effective January 1, 2012, these nonminor dependents shall be eligible to receive support up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years

of age, consistent with their transitional independent living case plan and as described in Section 10103.5. It is the intent of the Legislature both at the time of initial determination of the nonminor dependent's eligibility and throughout the time the nonminor dependent is eligible for aid pursuant to this section, that the social worker or probation officer or Indian tribal placing entity and the nonminor dependent shall work together to ensure the nonminor dependent's ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker, probation officer, or Indian tribe, with the nonminor dependent assuming increasing levels of responsibility and independence.

(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant to Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253 or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4. Effective January 1, 2012, a nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 and who satisfies the criteria set forth in subdivision (a) shall be eligible to continue to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision shall apply when one or more of the following conditions exist:

(1) The nonminor is completing secondary education or a program leading to an equivalent credential.

(2) The nonminor is enrolled in an institution which provides postsecondary or vocational education.

(3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.

(4) The nonminor is employed for at least 80 hours per month.

(5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. The requirement to update the case plan under this section shall not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments.

(c) The county child welfare or probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1, shall work together with a nonminor dependent who is in foster care on his or her 18th birthday and thereafter or a nonminor former dependent receiving aid pursuant to Section 11405, to satisfy one or more of the conditions described in paragraphs (1) to (5), inclusive, of

subdivision (b) and shall certify the nonminor's applicable condition or conditions in the nonminor's six-month transitional independent living case plan update, and provide the certification to the eligibility worker and to the court at each six-month case plan review hearing for the nonminor dependent. Relative guardians who receive Kin-GAP payments and adoptive parents who receive adoption assistance payments shall be responsible for reporting to the county welfare agency that the nonminor does not satisfy at least one of the conditions described in subdivision (b). The social worker, probation officer, or tribal entity shall verify and obtain assurances that the nonminor dependent continues to satisfy at least one of the conditions in paragraphs (1) to (5), inclusive, of subdivision (b) at each six-month transitional independent living case plan update. The six-month case plan update shall certify the nonminor's eligibility pursuant to subdivision (b) for the next six-month period. During the six-month certification period, the payee and nonminor shall report any change in placement or other relevant changes in circumstances that may affect payment. The nonminor dependent, or nonminor former dependent receiving aid pursuant to subdivision (e) of Section 11405, shall be informed of all due process requirements, in accordance with state and federal law, prior to an involuntary termination of aid, and shall simultaneously be provided with a written explanation of how to exercise his or her due process rights and obtain referrals to legal assistance. Any notices of action regarding eligibility shall be sent to the nonminor dependent or former dependent, his or her counsel, as applicable, and the placing worker, in addition to any other payee. Payments of aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, or aid pursuant to subdivision (e) of Section 11405 that are made on behalf of a nonminor former dependent shall terminate subject to the terms of the agreements. Subject to federal approval of amendments to the state plan, aid payments may be suspended and resumed based on changes of circumstances that affect eligibility. Nonminor former dependents, as identified in paragraph (2) of subdivision (aa) of Section 11400, are not eligible for reentry under subdivision (e) of Section 388 as nonminor dependents under the jurisdiction of the juvenile court. Nonminor former dependents requesting the resumption of AFDC-FC payments pursuant to subdivision (e) of Section 11405 shall complete the applicable portions of the voluntary reentry agreement, as described in subdivision (z) of Section 11400.

(d) A nonminor dependent may receive all of the payment directly provided that the nonminor is living independently in a supervised placement, as described in subdivision (w) of Section 11400, and that both the youth and the agency responsible for the foster care placement have signed a mutual agreement, as defined in subdivision (u) of Section 11400, if the youth is capable of making an informed agreement, that documents the continued need for supervised out-of-home placement, and the nonminor's and social worker's or probation officer's agreement to work together to

facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(e) Eligibility for aid under this section shall not terminate until the nonminor dependent attains the age criteria, as set forth in subdivision (a), but aid may be suspended when the nonminor dependent no longer resides in an eligible facility, as described in Section 11402, or is otherwise not eligible for AFDC-FC benefits under Section 11401, or terminated at the request of the nonminor, or after a court terminates dependency jurisdiction pursuant to Section 391, delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452. AFDC-FC benefits to nonminor dependents, may be resumed at the request of the nonminor by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, before or after the filing of a petition filed pursuant to subdivision (e) of Section 388 after a court terminates dependency or transitional jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2. The county welfare or probation department or Indian tribal entity that has entered into an agreement pursuant to Section 10553.1 shall complete the voluntary reentry agreement with the nonminor who agrees to satisfy the criteria of the agreement, as described in subdivision (z) of Section 11400. The county welfare department or tribal entity shall establish a new child-only Title IV-E eligibility determination based on the nonminor's completion of the voluntary reentry agreement pursuant to Section 11401. The beginning date of aid for either federal or state AFDC-FC for a reentering nonminor who is placed in foster care is the date the voluntary reentry agreement is signed or the nonminor is placed, whichever is later. The county welfare department, county probation department, or tribal entity shall provide a nonminor dependent who wishes to continue receiving aid with the assistance necessary to meet and maintain eligibility.

(f) (1) The county having jurisdiction of the nonminor dependent shall remain the county of payment under this section regardless of the youth's physical residence. Nonminor former dependents receiving aid pursuant to subdivision (e) of Section 11405 shall be paid by their county of residence. Counties may develop courtesy supervision agreements to provide case management and independent living services by the county of residence pursuant to the nonminor dependent's transitional independent living case plan. Placements made out of state are subject to the applicable requirements of the Interstate Compact on Placement of Children, pursuant to Part 5 (commencing with Section 7900) of Division 12 of the Family Code.

(2) The county welfare department, county probation department, or tribal entity shall notify all foster youth who attain 16 years of age and are under the jurisdiction of that county or tribe, including those receiving Kin-GAP, and AAP, of the existence of the aid prescribed by this section.

(3) The department shall seek any waiver to amend its Title IV-E State Plan with the Secretary of the United States Department of Health and Human Services necessary to implement this section.

(g) (1) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of extending aid pursuant to this section to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the county, including AFDC-FC payments pursuant to Section 11401, aid pursuant to Kin-GAP under Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, and aid pursuant to Section 11405 for nonminor dependents who are residing in the county as provided in paragraph (1) of subdivision (f). A county shall contribute to the CalWORKs payments pursuant to Section 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) at the statutory sharing ratios in effect on January 1, 2012.

(2) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of providing permanent placement services pursuant to subdivision (c) of Section 16508 and administering the Aid to Families with Dependent Children Foster Care program pursuant to Section 15204.9. For purposes of budgeting, the department shall use a standard for the permanent placement services that is equal to the midpoint between the budgeting standards for family maintenance services and family reunification services.

(3) (A) (i) Notwithstanding any other provision of law, a county's required total contribution pursuant to paragraphs (1) and (2), excluding costs incurred pursuant to Section 10103.5, shall not exceed the amount of savings in Kin-GAP assistance grant expenditures realized by the county from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385), and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011, plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

(ii) A county, at its own discretion, may expend additional funds beyond the amounts identified in clause (i). These additional amounts shall not be included in any cost and savings calculations or comparisons performed pursuant to this section.

(B) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code. In addition, the following are available to the counties for the purpose of funding costs pursuant to this section:

(i) The savings in Kin-GAP assistance grant expenditures realized from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385).

(ii) The savings realized from the change in federal funding for adoption assistance resulting from the enactment of Public Law 110-351 and consistent with subdivision (d) of Section 16118.

(4) (A) The limit on the county's total contribution pursuant to paragraph (3) shall be assessed by the State Department of Social Services, in conjunction with the California State Association of Counties, in 2015–16, to determine if it shall be removed. The assessment of the need for the limit shall be based on a determination on a statewide basis of whether the actual county costs of providing extended care pursuant to this section, excluding costs incurred pursuant to Section 10103.5, are fully funded by the amount of savings in Kin-GAP assistance grant expenditures realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

(B) If the assessment pursuant to subparagraph (A) shows that the statewide total costs of extending aid pursuant to this section, excluding costs incurred pursuant to Section 10103.5, are fully funded by the amount of savings in Kin-GAP assistance grant expenditures realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section, the Department of Finance shall certify that fact, in writing, and shall post the certification on its Internet Web site, at which time subparagraph (A) of paragraph (3) shall no longer be implemented.

(h) It is the intent of the Legislature that no county currently participating in the Child Welfare Demonstration Capped Allocation Project be adversely impacted by the department's exercise of its option to extend foster care benefits pursuant to Section 673(a)(4) and Section 675(8) of Title 42 of the United States Code in the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). Therefore, the department shall negotiate with the United States Department of Health and Human Services on behalf of those counties that are currently participating in the demonstration project to ensure that those counties receive reimbursement for these new programs outside of the provisions of those counties' waiver under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(i) The department, on or before July 1, 2013, shall develop regulations to implement this section in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor

organizations, juvenile justice advocacy organizations, foster caregiver organizations, and researchers. In the development of these regulations, the department shall consider its Manual of Policy and Procedures, Division 30, Chapter 30-912, 913, 916, and 917, as guidelines for developing regulations that are appropriate for young adults who can exercise incremental responsibility concurrently with their growth and development. The department, in its consultation with stakeholders, shall take into consideration the impact to the Automated Child Welfare Services Case Management Services (CWS-CMS) and required modifications needed to accommodate eligibility determination under this section, benefit issuance, case management across counties, and recognition of the legal status of nonminor dependents as adults, as well as changes to data tracking and reporting requirements as required by the Child Welfare System Improvement and Accountability Act as specified in Section 10601.2, and federal outcome measures as required by the federal John H. Chafee Foster Care Independence Program (42 U.S.C. Sec. 677(f)). In addition, the department, in its consultation with stakeholders, shall define the supervised independent living setting which shall include, but not be limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings, and define how those settings meet health and safety standards suitable for nonminors. The department, in its consultation with stakeholders, shall define the six-month certification of the conditions of eligibility pursuant to subdivision (b) to be consistent with the flexibility provided by federal policy guidance, to ensure that there are ample supports for a nonminor to achieve the goals of his or her transition independent living case plan. The department, in its consultation with stakeholders, shall ensure that notices of action and other forms created to inform the nonminor of due process rights and how to access them shall be developed, using language consistent with the special needs of the nonminor dependent population.

(j) Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall prepare for implementation of the applicable provisions of this section by publishing, after consultation with the stakeholders listed in subdivision (i), all-county letters or similar instructions from the director by October 1, 2011, to be effective January 1, 2012. Emergency regulations to implement the applicable provisions of this act may be adopted by the director in accordance with the Administrative Procedure Act. The initial adoption of the emergency regulations and one readoption of the emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(k) This section shall become operative on January 1, 2012.

SEC. 44. Section 11403.2 of the Welfare and Institutions Code is amended to read:

11403.2. (a) The following persons shall be eligible for transitional housing provided pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4:

(1) Any foster child at least 16 years of age and not more than 18 years of age, and, on or after January 1, 2012, any nonminor dependent, as defined in subdivision (v) of Section 11400, who is eligible for AFDC-FC benefits as described in Section 11401. A foster child under 18 years of age shall be eligible for placement in the program certified as a "Transitional Housing Placement Program," pursuant to paragraph (1) of subdivision (a) of Section 16522.2. A nonminor dependent shall be eligible for placement in the program certified as a "Transitional Housing Placement-Plus Foster Care Program" pursuant to paragraph (2) of subdivision (a) of Section 16522.2.

(2) Any former foster youth at least 18 years of age and not more than 24 years of age who has exited from the foster care system on or after his or her 18th birthday and elects to participate in Transitional Housing Program-Plus, as defined in subdivision (s) of Section 11400, provided he or she has not received services under this paragraph for more than a total of 24 months, whether or not consecutive. If the person participating in a Transitional Housing Program-Plus is not receiving aid under Section 11403.1, he or she, as a condition of participation, shall enter into, and execute the provisions of, a transitional independent living plan that shall be mutually agreed upon, and annually reviewed, by the former foster youth and the applicable county welfare or probation department or independent living program coordinator. The person participating under this paragraph shall inform the county of any changes to conditions specified in the agreed-upon plan that affect eligibility, including changes in address, living circumstances, and the educational or training program.

(b) Payment on behalf of an eligible person receiving transitional housing services pursuant to paragraph (1) of subdivision (a) shall be made to the transitional housing placement provider pursuant to the conditions and limitations set forth in Section 11403.3. Notwithstanding Section 11403.3, the department, in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, researchers, and transitional housing placement providers, shall convene a workgroup to establish a new rate structure for the Title IV-E funded THP-Plus-Foster Care placement option for nonminor dependents. The workgroup shall also consider application of this new rate structure to the Transitional Housing Program-Plus, as described in paragraph (2) of subdivision (a) of Section 11403.3. In developing the new rate structure pursuant to this subdivision, the department shall consider the average rates

in effect and being paid by counties to current transitional housing placement providers.

SEC. 45. Section 11405 of the Welfare and Institutions Code is amended to read:

11405. (a) Except for nonminors described in paragraph (2) of subdivision (e), AFDC-FC benefits shall be paid to an otherwise eligible child living with a nonrelated legal guardian, provided that the legal guardian cooperates with the county welfare department in all of the following:

(1) Developing a written assessment of the child's needs.

(2) Updating the assessment no less frequently than once every six months.

(3) Carrying out the case plan developed by the county.

(b) Except for nonminors described in paragraph (2) of subdivision (e), when AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian the county welfare department shall do all of the following:

(1) Develop a written assessment of the child's needs.

(2) Update those assessments no less frequently than once every six months.

(3) Develop a case plan that specifies how the problems identified in the assessment are to be addressed.

(4) Make visits to the child as often as appropriate, but in no event less often than once every six months.

(c) Where the child is a parent and has a child living with him or her in the same eligible facility, the assessment required by paragraph (1) of subdivision (a) shall include the needs of his or her child.

(d) Nonrelated legal guardians of eligible children who are in receipt of AFDC-FC payments described in this section shall be exempt from the requirement to register with the Statewide Registry of Private Professional Guardians pursuant to Sections 2850 and 2851 of the Probate Code.

(e) (1) On and after January 1, 2012, a nonminor youth whose nonrelated guardianship was ordered in juvenile court pursuant to Section 360 or 366.26, and whose dependency was dismissed, shall remain eligible for AFDC-FC benefits until the youth attains 19 years of age, effective January 1, 2013, until the youth attains 20 years of age, and effective January 1, 2014, until the youth attains 21 years of age, provided that the youth enters into a mutual agreement with the agency responsible for his or her guardianship, and the youth is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(2) A nonminor former dependent or ward as defined in paragraph (2) of subdivision (aa) of Section 11400 shall be eligible for benefits under this section until the youth attains 21 years of age if all of the following conditions are met:

(A) The nonminor former dependent or ward attained 18 years of age while in receipt of Kin-GAP benefits pursuant to Article 4.7 (commencing with Section 11385).

(B) The nonminor's relationship to the kinship guardian is defined in paragraph (2), (3), or (4) of subdivision (c) of Section 11391.

(C) The nonminor who was under 16 years of age at the time the Kin-GAP negotiated agreement payments commenced.

(D) The guardian continues to be responsible for the support of the nonminor.

(E) The nonminor otherwise is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(f) On or after January 1, 2012, a child whose nonrelated guardianship was ordered in probate court pursuant Article 2 (commencing with Section 1510) of Chapter 1 of Part 2 of Division 4 of the Probate Code, who is attending high school or the equivalent level of vocational or technical training on a full-time basis, or who is in the process of pursuing a high school equivalency certificate prior to his or her 18th birthday may continue to receive aid following his or her 18th birthday as long as the child continues to reside in the guardian's home, remains otherwise eligible for AFDC-FC benefits and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis, or continues to pursue a high school equivalency certificate, and the child may reasonably be expected to complete the educational or training program or to receive a high school equivalency certificate, before his or her 19th birthday. Aid shall be provided to an individual pursuant to this section provided that both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, documenting the continued need for out-of-home placement.

(g) (1) For cases in which a guardianship was established on or before June 30, 2011, or the date specified in a final order, for which the time for appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the AFDC-FC payment described in this section shall be the foster family home rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which guardianship has been established on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the AFDC-FC payments described in this section shall be the basic foster family home rate set forth in paragraph (1) of subdivision (g) of Section 11461.

(3) Beginning with the 2011–12 fiscal year, the AFDC-FC payments identified in this subdivision shall be adjusted annually by the percentage change in the California Necessities Index rate as set forth in paragraph (2) of subdivision (g) of Section 11461.

(h) In addition to the AFDC-FC rate paid, all of the following also shall be paid:

(1) A specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461.

(2) A clothing allowance, as set forth in subdivision (f) of Section 11461.

(3) For a child eligible for an AFDC-FC payment who is a teen parent, the rate shall include the two hundred dollar ($200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

SEC. 46. Section 16002.5 of the Welfare and Institutions Code is amended to read:

16002.5. It is the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor parents and nonminor dependent parents who are themselves under the jurisdiction of the juvenile court by ensuring that minor parents and their children are placed together in as family-like a setting as possible, unless it has been determined that placement together poses a risk to the child.

(a) To the greatest extent possible, dependent minor parents and their children living in foster care shall be provided with access to existing services for which they may be eligible, that are specifically targeted at supporting, maintaining, and developing both the parent-child bond and the minor parent's ability to provide a permanent and safe home for the child. Examples of these services may include, but shall not be limited to, child care, parenting classes, child development classes, and frequent visitation.

(b) The minor parent shall be given the ability to attend school, complete homework, and participate in age and developmentally appropriate activities unrelated to and separate from parenting.

(c) Foster care placements for minor parents and their children shall demonstrate a willingness and ability to provide support and assistance to dependent minor parents and their children.

(d) Contact between the child, the custodial parent, and the noncustodial parent shall be facilitated when that contact is found to be in the best interest of the child.

(e) For the purpose of this section, "child" refers to the child born to the minor parent.

(f) For the purpose of this section, "minor parent" refers to a dependent child who is also a parent.

(g) For the purpose of this section, "nonminor dependent parent" refers to a nonminor as described in subdivision (v) of Section 11400 who also is a parent.

SEC. 47. Section 16010 of the Welfare and Institutions Code is amended to read:

16010. (a) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child's health, dental, and education providers, the child's grade level performance, the child's school record, assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at

the time of placement, the number of school transfers the child has already experienced, the child's educational progress, as demonstrated by factors, including, but not limited to, academic proficiency scores, credits earned toward graduation, a record of the child's immunizations and allergies, the child's known medical problems, the child's current medications, past health problems and hospitalizations, a record of the child's relevant mental health history, the child's known mental health condition and medications, and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. If any other law imposes more stringent information requirements, then that section shall prevail.

(b) Additionally, a court report or assessment required pursuant to subdivision (g) of Section 361.5, Section 366.1, subdivision (d) of Section 366.21, or subdivision (b) of Section 366.22 shall include a copy of the current health and education summary described in subdivision (a). With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, a copy of the current health and education summary shall be included in the court report only if and when the nonminor dependent consents in writing to its inclusion.

(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caregiver with the child's current health and education summary as described in subdivision (a). For each subsequent placement of a child or nonminor dependent, the child protective agency shall provide the caregiver with a current summary as described in subdivision (a) within 48 hours of the placement. With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, the social worker or probation officer shall advise the young adult of the social worker's or probation officer's obligation to provide the health and education summary to the new caregiver and the court, and shall discuss with the youth the benefits and liabilities of sharing that information.

(d) (1) Notwithstanding Section 827 or any other law, the child protective agency may disclose any information described in this section to a prospective caregiver or caregivers prior to placement of a child if all of the following requirements are met:

(A) The child protective agency intends to place the child with the prospective caregiver or caregivers.

(B) The prospective caregiver or caregivers are willing to become the adoptive parent or parents of the child.

(C) The prospective caregiver or caregivers have an approved adoption assessment or home study, a foster family home license, certification by a licensed foster family agency, or approval pursuant to the requirements in Sections 361.3 and 361.4.

(2) In addition to the information required to be provided under this section, the child protective agency may disclose to the prospective caregiver specified in paragraph (1), placement history or underlying source documents

that are provided to adoptive parents pursuant to subdivisions (a) and (b) of Section 8706 of the Family Code.

(e) The child's caregiver shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during the time that the child is in the care of the caregiver. On each required visit, the child protective agency or its designee family foster agency shall inquire of the caregiver whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with the information as appropriate, but not later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee family foster agency shall take all necessary steps to assist the caregiver in obtaining relevant health and education information for the child's health and education summary as described in subdivision (a). The caregiver of a nonminor dependent, as described in subdivision (v) of Section 11400, is not responsible for obtaining and maintaining the nonminor dependent's health and educational information, but may assist the nonminor dependent with any recordkeeping that the nonminor requests of the caregiver.

(f) At the initial hearing, the court shall direct each parent to provide to the child protective agency complete medical, dental, mental health, and educational information, and medical background, of the child and of the child's mother and the child's biological father if known. The Judicial Council shall create a form for the purpose of obtaining health and education information from the child's parents or guardians at the initial hearing. The court shall determine at the hearing held pursuant to Section 358 whether the medical, dental, mental health, and educational information has been provided to the child protective agency.

SEC. 47.5. Section 16010 of the Welfare and Institutions Code is amended to read:

16010. (a) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child's health, dental, and education providers; the child's grade level performance; the child's school record; assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; the number of school transfers the child has already experienced; the child's educational progress, as demonstrated by factors, including, but not limited to, academic proficiency scores; credits earned toward graduation; a record of the child's immunizations and allergies; the child's known medical problems; the child's current medications, past health problems, and hospitalizations; a record of the child's relevant mental health history; the child's known mental health condition and medications; and

any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. The health and education summary may also include the name and contact information for the educational liaison, as described in subdivision (b) of Section 48853.5 of the Education Code, of the child's local educational agency. If any other law imposes more stringent information requirements, then that section shall prevail.

(b) Additionally, a court report or assessment required pursuant to subdivision (g) of Section 361.5, Section 366.1, subdivision (d) of Section 366.21, or subdivision (c) of Section 366.22 shall include a copy of the current health and education summary described in subdivision (a). With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, a copy of the current health and education summary shall be included in the court report only if and when the nonminor dependent consents in writing to its inclusion.

(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caregiver with the child's current health and education summary as described in subdivision (a). For each subsequent placement of a child or nonminor dependent, the child protective agency shall provide the caregiver with a current summary as described in subdivision (a) within 48 hours of the placement. With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, the social worker or probation officer shall advise the young adult of the social worker's or probation officer's obligation to provide the health and education summary to the new caregiver and the court, and shall discuss with the youth the benefits and liabilities of sharing that information.

(d) (1) Notwithstanding Section 827 or any other law, the child protective agency may disclose any information described in this section to a prospective caregiver or caregivers prior to placement of a child if all of the following requirements are met:

(A) The child protective agency intends to place the child with the prospective caregiver or caregivers.

(B) The prospective caregiver or caregivers are willing to become the adoptive parent or parents of the child.

(C) The prospective caregiver or caregivers have an approved adoption assessment or home study, a foster family home license, certification by a licensed foster family agency, or approval pursuant to the requirements in Sections 361.3 and 361.4.

(2) In addition to the information required to be provided under this section, the child protective agency may disclose to the prospective caregiver specified in paragraph (1), placement history or underlying source documents that are provided to adoptive parents pursuant to subdivisions (a) and (b) of Section 8706 of the Family Code.

(e) The child's caregiver shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during

the time that the child is in the care of the caregiver. On each required visit, the child protective agency or its designee family foster agency shall inquire of the caregiver whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with the information as appropriate, but not later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee family foster agency shall take all necessary steps to assist the caregiver in obtaining relevant health and education information for the child's health and education summary as described in subdivision (a). The caregiver of a nonminor dependent, as described in subdivision (v) of Section 11400, is not responsible for obtaining and maintaining the nonminor dependent's health and educational information, but may assist the nonminor dependent with any recordkeeping that the nonminor requests of the caregiver.

(f) At the initial hearing, the court shall direct each parent to provide to the child protective agency complete medical, dental, mental health, and educational information, and medical background, of the child and of the child's mother and the child's biological father if known. The Judicial Council shall create a form for the purpose of obtaining health and education information from the child's parents or guardians at the initial hearing. The court shall determine at the hearing held pursuant to Section 358 whether the medical, dental, mental health, and educational information has been provided to the child protective agency.

SEC. 48. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (*l*), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a tribal customary adoption, if the court has given full faith and credit to a tribal customary adoption order as provided for pursuant to paragraph (2) of subdivision (e) of Section 366.26, or, in the case of a nonminor dependent the court has dismissed dependency or transitional jurisdiction subsequent to the approval of the nonminor dependent, adoption petition pursuant to subdivision (f) of Section 366.31.

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of three years or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment

and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care, as described in Section 11464.

(c) The need for an adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(3) Effective January 1, 2012, he or she is under 19 years of age, effective January 1, 2013, he or she is under 20 years of age, and effective January 1, 2014, he or she is under 21 years of age and as described in Section 10103.5, and has attained 16 years of age before the adoption assistance agreement became effective, and one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403 applies.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) The prospective adoptive parent or any adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to Section 671(a)(20)(A) and (C) of Title 42 of the United States Code.

(i) To be eligible for state funding, the child is the subject of an agency adoption, as defined in Section 8506 of the Family Code, and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department pursuant to Section 8805 or 8918 of the Family Code.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24. Notwithstanding Section 8600.5 of the Family Code, for purposes of this subdivision a tribal customary adoption shall be considered an agency adoption.

(j) To be eligible for federal funding, in the case of a child who is not an applicable child for the federal fiscal year as defined in subdivision (n), the child satisfies any of the following criteria:

(1) Prior to the finalization of an agency adoption, as defined in Section 8506 of the Family Code, or an independent adoption, as defined in Section 8524 of the Family Code, is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, as determined and documented by the federal Social Security Administration.

(2) The child was removed from the home of a specified relative and the child would have been AFDC eligible in the home of removal according to Section 606(a) or 607 of Title 42 of the United States Code, as those sections were in effect on July 16, 1996, in the month of the voluntary placement agreement or in the month court proceedings are initiated to remove the child, resulting in a judicial determination that continuation in the home would be contrary to the child's welfare. The child must have been living with the specified relative from whom he or she was removed within six months of the month the voluntary placement agreement was signed or the petition to remove was filed.

(3) The child was voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative and a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(4) Title IV-E foster care maintenance was paid on behalf of the child's minor parent and covered the cost of the minor parent's child while the child was in the foster family home or child care institution with the minor parent.

(5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(k) To be eligible for federal funding, in the case of a child who is an applicable child for the federal fiscal year, as defined in subdivision (n), the child meets any of the following criteria:

(1) At the time of initiation of adoptive proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or a voluntary relinquishment.

(2) He or she meets all medical or disability requirements of Title XVI with respect to eligibility for supplemental security income benefits.

(3) He or she was residing in a foster family home or a child care institution with the child's minor parent, and the child's minor parent was in the foster family home or child care institution pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or voluntary relinquishment.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(5) The nonminor dependent, as described in subdivision (v) of Section 11400, is the subject of an adoption pursuant to subdivision (f) of Section 366.31.

(*l*) The child is a citizen of the United States or a qualified alien as defined in Section 1641 of Title 8 of the United States Code. If the child is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the child must meet the five-year residency requirement pursuant to Section 673(a)(2)(B) of Title 42 of the United States Code, unless the child is a member of one of the excepted groups pursuant to Section 1612(b) of Title 8 of the United States Code.

(m) A child shall be eligible for Adoption Assistance Program benefits if the following conditions are met:

(1) The child received Adoption Assistance Program benefits with respect to a prior adoption and the child is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's adoptive parents died and the child meets the special needs criteria described in subdivisions (a) to (c), inclusive.

(2) To receive federal funding, the citizenship requirements in subdivision (*l*).

(n) (1) Except as provided in this subdivision, "applicable child" means a child for whom an adoption assistance agreement is entered into under this section during any federal fiscal year described in this subdivision if the child attained the applicable age for that federal fiscal year before the end of that federal fiscal year.

(A) For federal fiscal year 2010, the applicable age is 16 years.

(B) For federal fiscal year 2011, the applicable age is 14 years.

(C) For federal fiscal year 2012, the applicable age is 12 years.

(D) For federal fiscal year 2013, the applicable age is 10 years.

(E) For federal fiscal year 2014, the applicable age is eight years.

(F) For federal fiscal year 2015, the applicable age is six years.

(G) For federal fiscal year 2016, the applicable age is four years.

(H) For federal fiscal year 2017, the applicable age is two years.

(I) For federal fiscal year 2018 and thereafter, any age.

(2) Beginning with the 2010 federal fiscal year, the term "applicable child" shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:

(A) He or she has been in foster care under the responsibility of the state for at least 60 consecutive months.

(B) He or she meets the requirements of subdivision (k).

(3) Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:

(A) He or she is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).

(B) He or she is to be placed in the same adoption placement as an "applicable child" for the federal fiscal year who is their sibling.

(C) He or she meets the requirements of subdivision (k).

SEC. 49. Section 16120.1 of the Welfare and Institutions Code is amended to read:

16120.1. Upon the authorization of the department or, where appropriate, the county responsible for determining the child's or nonminor dependent's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a special needs child, as defined in subdivisions (a) to (c), inclusive, and subdivision (*l*), of Section 16120. Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department and shall be subject to the following conditions:

(a) The amount of the payment shall be determined through agreement between the adopting parent or parents and the department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid. The agreement shall indicate the nature and the amount of the nonrecurring expenses to be paid. Payments shall be limited to an amount not to exceed four hundred dollars ($400) for each placement eligible for the Adoption Assistance Program.

(b) There shall be no income eligibility requirement for an adoptive parent or adoptive parents in determining whether payments for nonrecurring expenses shall be made.

(c) Reimbursement for nonrecurring expenses shall be limited to costs incurred by or on behalf of an adoptive parent or adoptive parents that are not reimbursed from other sources. No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of children eligible for the Adoption Assistance Program pursuant to Section 673 of Title 42 of the United States Code is terminated.

(d) Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included

in the computation of maximum benefits for which the adoptive family is eligible pursuant to Section 16121.

SEC. 50. Section 16122 of the Welfare and Institutions Code is amended to read:

16122. (a) It is the intent of the Legislature in enacting this chapter to provide children or nonminor dependents who would otherwise remain in long-term foster care with permanent adoptive homes. It is also the intent of this Legislature to encourage private adoption agencies to continue placing these children, and in so doing, to achieve a substantial savings to the state in foster care costs.

(b) From any funds appropriated for this purpose, the state shall compensate private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of placing for adoption children or nonminor dependents eligible for Adoption Assistance Program benefits pursuant to Section 16120.

These agencies shall be compensated for otherwise unreimbursed costs for the placement of these children in an amount not to exceed a total of three thousand five hundred dollars ($3,500) per child adopted. Half of the compensation shall be paid at the time the adoptive placement agreement is signed. The remainder shall be paid at the time the adoption petition is granted by the court. Requests for compensation shall conform to claims procedures established by the department. This section shall not be construed to authorize reimbursement to private agencies for intercountry adoption services.

(c) Effective July 1, 1999, the maximum amount of reimbursement pursuant to subdivision (b) shall be five thousand dollars ($5,000).

(d) Effective February 1, 2008, the maximum amount of reimbursement pursuant to subdivision (b) shall be ten thousand dollars ($10,000). This rate increase shall apply only to those cases for which the adoptive home study approval occurred on or after July 1, 2007.

SEC. 51. Section 16123 of the Welfare and Institutions Code is amended to read:

16123. The provisions of Section 16120, permitting the payment of adoption assistance until a child attains 18 or 21 years of age if the child has mental or physical handicaps, or effective January 1, 2012, up to 21 years of age, if the child or nonminor meets the criteria specified in paragraph (3) of subdivision (d) of Section 16120, shall be effective as long as federal funds are available under Title IV-E of the federal Social Security Act (Part E (commencing with Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code), and the state continues to exercise its option to extend payments up to 21 years of age, pursuant to Section 473(a)(4) of the federal Social Security Act (42 U.S.C. Sec. 673(a)(4)). When those funds cease to be available, the maximum length for payment of the Adoption Assistance Program shall be five years except in instances in which there is a continuing need, related to a chronic health condition of the child which necessitated the initial financial assistance. On and after October 1, 1992,

the parent may petition the department or the responsible county to continue financial assistance up to the age of majority.

SEC. 52. Section 16501 of the Welfare and Institutions Code is amended to read:

16501. (a) As used in this chapter, "child welfare services" means public social services which are directed toward the accomplishment of any or all of the following purposes: protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; restoring to their families children who have been removed, by the provision of services to the child and the families; identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and ensuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

"Child welfare services" also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family preservation services, family maintenance services, family reunification services, and permanent placement services, including supportive transition services. The individual child's case plan is the guiding principle in the provision of these services. The case plan shall be developed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever comes first.

(1) Child welfare services may include, but are not limited to, a range of service-funded activities, including case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, respite care, therapeutic day services, teaching and demonstrating homemakers, parenting training, substance abuse testing, and transportation. These service-funded activities shall be available to children and their families in all phases of the child welfare program in accordance with the child's case plan and departmental regulations. Funding for services is limited to the amount appropriated in the annual Budget Act and other available county funds.

(2) Service-funded activities to be provided may be determined by each county, based upon individual child and family needs as reflected in the service plan.

(3) As used in this chapter, "emergency shelter care" means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their guardian or guardians. The

department may establish, by regulation, the time periods for which emergency shelter care shall be funded. For the purposes of this paragraph, "emergency shelter care" may include "transitional shelter care facilities" as defined in paragraph (11) of subdivision (a) of Section 1502 of the Health and Safety Code.

(b) As used in this chapter, "respite care" means temporary care for periods not to exceed 72 hours. This care may be provided to the child's parents or guardians. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing child care.

(c) The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the department. Counties may contract for service-funded activities as defined in paragraph (1) of subdivision (a). Each county shall use available private child welfare resources prior to developing new county-operated resources when the private child welfare resources are of at least equal quality and lesser or equal cost as compared with county-operated resources. Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services, except as specifically authorized in Section 16100.

(d) Nothing in this chapter shall be construed to affect duties which are delegated to probation officers pursuant to Sections 601 and 654.

(e) Any county may utilize volunteer individuals to supplement professional child welfare services by providing ancillary support services in accordance with regulations adopted by the State Department of Social Services.

(f) As used in this chapter, emergency response services consist of a response system providing in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation, as required by Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of investigation pursuant to Section 11166 of the Penal Code and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. This evaluation includes collateral, contacts, a review of previous referrals, and other relevant information, as indicated.

(g) As used in this chapter, family maintenance services are activities designed to provide in-home protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

(h) As used in this chapter, family reunification services are activities designed to provide time-limited foster care services to prevent or remedy

neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.

(i) As used in this chapter, permanent placement services are activities designed to provide an alternate permanent family structure for children who because of abuse, neglect, or exploitation cannot safely remain at home and who are unlikely to ever return home. These services shall be provided on behalf of children for whom there has been a judicial determination of a permanent plan for adoption, legal guardianship, or long-term foster care, and, as needed, shall include supportive transition services to nonminor dependents, as described in subdivision (v) of Section 11400.

(j) As used in this chapter, family preservation services include those services specified in Section 16500.5 to avoid or limit out-of-home placement of children, and may include those services specified in that section to place children in the least restrictive environment possible.

(k) (1) (A) In any county electing to implement this subdivision, all county welfare department employees who have frequent and routine contact with children shall, by February 1, 1997, and all welfare department employees who are expected to have frequent and routine contact with children and who are hired on or after January 1, 1996, and all such employees whose duties change after January 1, 1996, to include frequent and routine contact with children, shall, if the employees provide services to children who are alleged victims of abuse, neglect, or exploitation, sign a declaration under penalty of perjury regarding any prior criminal conviction, and shall provide a set of fingerprints to the county welfare director.

(B) The county welfare director shall secure from the Department of Justice a criminal record to determine whether the employee has ever been convicted of a crime other than a minor traffic violation. The Department of Justice shall deliver the criminal record to the county welfare director.

(C) If it is found that the employee has been convicted of a crime, other than a minor traffic violation, the county welfare director shall determine whether there is substantial and convincing evidence to support a reasonable belief that the employee is of good character so as to justify frequent and routine contact with children.

(D) No exemption shall be granted pursuant to subparagraph (C) if the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in paragraph (1) of Section 273a of, or subdivision (a) or (b) of Section 368 of, the Penal Code, or has been convicted of an offense specified in subdivision (c) of Section 667.5 of the Penal Code. The county welfare director shall suspend such a person from any duties involving frequent and routine contact with children.

(E) Notwithstanding subparagraph (D), the county welfare director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual specified in paragraph (1) or (7) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated

as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's or prospective employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the county welfare director may give the employee or prospective employee an opportunity to explain the conviction and shall consider that explanation in the evaluation of the criminal conviction record.

(F) If no criminal record information has been recorded, the county welfare director shall cause a statement of that fact to be included in that person's personnel file.

(2) For purposes of this subdivision, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the county welfare director is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this subdivision, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

SEC. 53. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, the case plan shall include

information, to the extent possible, about a parent's incarceration in a county jail or the state prison during the time that a minor child of that parent is involved in dependency care.

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the case plan shall include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. The decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family like and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, nonrelated extended family members, tribal members, and foster family homes, certified homes of foster family agencies, intensive treatment or multidimensional treatment foster care homes, group care placements, such as group homes and community treatment facilities, and residential treatment pursuant to Section 7950 of the Family Code.

(2) If a group care placement is selected for a child, the case plan shall indicate the needs of the child that necessitate this placement, the plan for transitioning the child to a less restrictive environment, and the projected timeline by which the child will be transitioned to a less restrictive environment. This section of the case plan shall be reviewed and updated at least semiannually.

(3) On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living placement, as described in subdivision (w) of Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. If admission to, or continuation in, a group home placement is being considered for a nonminor dependent, the group home placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the full range of placement options, and shall specify why admission to, or continuation in, a group home placement is the best alternative available at the time to meet the special needs or well-being of the nonminor dependent, and how the placement will contribute to the nonminor

dependent's transition to independent living. The case plan shall specify the treatment strategies that will be used to prepare the nonminor dependent for discharge to a less restrictive and more family-like setting, including a target date for discharge from the group home placement. The placement shall be reviewed and updated on a regular, periodic basis to ensure that continuation in the group home remains in the best interests of the nonminor dependent and that progress is being made in achieving case plan goals leading to independent living. The group home placement planning process shall begin as soon as it becomes clear to the county welfare department or probation office that a foster child in group home placement is likely to remain in group home placement on his or her 18th birthday, in order to expedite the transition to a less restrictive and more family-like setting if he or she becomes a nonminor dependent. The case planning process shall include informing the youth of all of his or her options, including, but not limited to, admission to or continuation in a group home placement. Consideration for continuation of existing group home placement for a nonminor dependent under 19 years of age may include the need to stay in the same placement in order to complete high school. After a nonminor dependent either completes high school or attains his or her 19th birthday, whichever is earlier, continuation in or admission to a group home is prohibited unless the nonminor dependent satisfies the conditions of paragraph (5) of subdivision (b) of Section 11403, and group home placement functions as a short-term transition to the appropriate system of care. Treatment services provided by the group home placement to the nonminor dependent to alleviate or ameliorate the medical condition, as described in paragraph (5) of subdivision (b) of Section 11403, shall not constitute the sole basis to disqualify a nonminor dependent from the group home placement.

(4) In addition to the requirements of paragraphs (1) to (3), inclusive, and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school of origin, and school attendance area, the number of school transfers the child has previously experienced, and the child's school matriculation schedule, in addition to other indicators of educational stability that the Legislature hereby encourages the State Department of Social Services and the State Department of Education to develop.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Sections 364, 366, 366.3, and 366.31, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each

updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified

in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(12) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In a voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan. Commencing January 1, 2012, for nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC or CalWORKs assistance up to 21 years of age pursuant to Section 11403, the transitional independent living case plan, as set forth in subdivision (y) of Section 11400, shall be developed with, and signed by, the nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure

to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21, 366.22, or 366.25 as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(16) (A) When appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan shall include the transitional independent living plan (TILP), a written description of the programs and services that will help the child, consistent with the child's best interests, prepare for the transition from foster care to independent living, and, in addition, whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Immigrant Juvenile Status or other applicable application for legal residency and an active dependency case is required for that application. When appropriate, for a nonminor dependent, the transitional independent living case plan, as described in subdivision (v) of Section 11400, shall include the TILP, a written description of the programs and services that will help the nonminor dependent, consistent with his or her best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the supervised independent living

placement as defined in subdivision (w) of Section 11400. The case plan shall be developed with the child or nonminor dependent and individuals identified as important to the child or nonminor dependent, and shall include steps the agency is taking to ensure that the child or nonminor dependent achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults.

(B) During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec. 675(8)(B)(iii)), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 of the federal Social Security Act (42 U.S.C. Sec. 677), a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care and information regarding the advance health care directive form.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services. The nonminor dependent's caregiver shall be provided with a copy of the nonminor's TILP.

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(*l*) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 53.1. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, the case plan shall include information, to the extent possible, about a parent's incarceration in a county jail or the state prison during the time that a minor child of that parent is involved in dependency care.

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the case plan shall include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. The decision regarding choice of placement shall be based upon selection

of a safe setting that is the least restrictive or most family like and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, nonrelated extended family members, tribal members, and foster family homes, certified homes of foster family agencies, intensive treatment or multidimensional treatment foster care homes, group care placements, such as group homes and community treatment facilities, and residential treatment pursuant to Section 7950 of the Family Code.

(2) If a group care placement is selected for a child, the case plan shall indicate the needs of the child that necessitate this placement, the plan for transitioning the child to a less restrictive environment, and the projected timeline by which the child will be transitioned to a less restrictive environment. This section of the case plan shall be reviewed and updated at least semiannually.

(3) On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living placement, as described in subdivision (w) of Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. If admission to, or continuation in, a group home placement is being considered for a nonminor dependent, the group home placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the full range of placement options, and shall specify why admission to, or continuation in, a group home placement is the best alternative available at the time to meet the special needs or well-being of the nonminor dependent, and how the placement will contribute to the nonminor dependent's transition to independent living. The case plan shall specify the treatment strategies that will be used to prepare the nonminor dependent for discharge to a less restrictive and more family-like setting, including a target date for discharge from the group home placement. The placement shall be reviewed and updated on a regular, periodic basis to ensure that continuation in the group home remains in the best interests of the nonminor dependent and that progress is being made in achieving case plan goals leading to independent living. The group home placement planning process shall begin as soon as it becomes clear to the county welfare department or probation office that a foster child in group home placement is likely to remain in group home placement on his or her 18th birthday, in order to expedite the transition to a less restrictive and more family-like setting if he or she becomes a nonminor dependent. The case planning process shall include informing the youth of all of his or her options, including, but not limited to, admission to or continuation in a group home placement.

Consideration for continuation of existing group home placement for a nonminor dependent under 19 years of age may include the need to stay in the same placement in order to complete high school. After a nonminor dependent either completes high school or attains his or her 19th birthday, whichever is earlier, continuation in or admission to a group home is prohibited unless the nonminor dependent satisfies the conditions of paragraph (5) of subdivision (b) of Section 11403, and group home placement functions as a short-term transition to the appropriate system of care. Treatment services provided by the group home placement to the nonminor dependent to alleviate or ameliorate the medical condition, as described in paragraph (5) of subdivision (b) of Section 11403, shall not constitute the sole basis to disqualify a nonminor dependent from the group home placement.

(4) In addition to the requirements of paragraphs (1) to (3), inclusive, and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school of origin, and school attendance area, the number of school transfers the child has previously experienced, and the child's school matriculation schedule, in addition to other indicators of educational stability that the Legislature hereby encourages the State Department of Social Services and the State Department of Education to develop.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Sections 364, 366, 366.3, and 366.31, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant

to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within

the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that each placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of each placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification

and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(12) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In a voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan. Commencing January 1, 2012, for nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC benefits or CalWORKs assistance up to 21 years of age pursuant to Section 11403, the transitional independent living case plan, as set forth in subdivision (y) of Section 11400, shall be developed with, and signed by, the nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21, 366.22, or 366.25 as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case

plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(16) (A) When appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan shall include the transitional independent living plan (TILP), a written description of the programs and services that will help the child, consistent with the child's best interests, prepare for the transition from foster care to independent living, and, in addition, whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Immigrant Juvenile Status or other applicable application for legal residency and an active dependency case is required for that application. When appropriate, for a nonminor dependent, transitional independent living case plan, as described in subdivision (v) of Section 11400, shall include the TILP, a written description of the programs and services that will help the nonminor dependent, consistent with his or her best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the supervised independent living placement as defined in subdivision (w) of Section 11400. The case plan shall be developed with the child or nonminor dependent and individuals identified as important to the child or nonminor dependent, and shall include steps the agency is taking to ensure that the child or nonminor dependent achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults.

(B) During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social Security Act, whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 (42 U.S.C. Sec. 677) of the federal Social Security Act, a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor with

assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care and information regarding the advance health care directive form.

(17) For youth 16 years of age and older and nonminor dependents, the case plan shall include documentation that the youth received a yearly consumer credit report, at no charge to the youth. If the consumer credit report reveals any inaccuracies, the case plan shall detail the assistance the youth or nonminor dependent will receive to resolve the inaccuracies.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services. The nonminor dependent's caregiver shall be provided with a copy of the nonminor's TILP.

(k) (1) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(2) Effective October 1, 2011, the total number of monthly caseworker visits to children in foster care shall not be less than 90 percent of the total number of monthly caseworker visits that would occur if each child is visited once per month.

(3) Effective October 1, 2011, no less than 50 percent of the total monthly caseworker visits conducted by the caseworker shall occur in the child's residence.

(4) Effective October 1, 2014, the total number of monthly caseworker visits to children in foster care shall not be less than 95 percent of the total number of monthly caseworker visits that would occur if each child is visited once per month.

(5) The department, along with the county welfare and probation departments, shall collect and provide any data reporting requirements necessary to comply with the federal Child and Family Services Improvement and Innovation Act (Public Law 112-34).

(*l*) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 53.2. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, detained by the United States Department of Homeland Security, or deported to his or her country of origin, the case plan shall include information, to the extent possible, about a parent's incarceration in a county jail or the state prison, detention by the United States Department of Homeland Security, or deportation during the time that a minor child of that parent is involved in dependency care.

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to

subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the case plan shall include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. The decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family like and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, nonrelated extended family members, tribal members, and foster family homes , certified homes of foster family agencies, intensive treatment or multidimensional treatment foster care homes, group care placements, such as group homes and community treatment facilities, and residential treatment pursuant to Section 7950 of the Family Code.

(2) If a group care placement is selected for a child, the case plan shall indicate the needs of the child that necessitate this placement, the plan for transitioning the child to a less restrictive environment, and the projected timeline by which the child will be transitioned to a less restrictive environment. This section of the case plan shall be reviewed and updated at least semiannually.

(3) On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living placement, as described in subdivision (w) of Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. If admission to, or continuation in, a group home placement is being considered for a nonminor dependent, the group home placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the full range of placement options, and shall specify why admission to, or continuation in, a group home placement is the best alternative available at the time to meet the special needs or well-being of the nonminor dependent, and how the placement will contribute to the nonminor dependent's transition to independent living. The case plan shall specify the treatment strategies that will be used to prepare the nonminor dependent for discharge to a less restrictive and more family-like setting, including a target date for discharge from the group home placement. The placement shall be reviewed and updated on a regular, periodic basis to ensure that

continuation in the group home remains in the best interests of the nonminor dependent and that progress is being made in achieving case plan goals leading to independent living. The group home placement planning process shall begin as soon as it becomes clear to the county welfare department or probation office that a foster child in group home placement is likely to remain in group home placement on his or her 18th birthday, in order to expedite the transition to a less restrictive and more family-like setting if he or she becomes a nonminor dependent. The case planning process shall include informing the youth of all of his or her options, including, but not limited to, admission to or continuation in a group home placement. Consideration for continuation of existing group home placement for a nonminor dependent under 19 years of age may include the need to stay in the same placement in order to complete high school. After a nonminor dependent either completes high school or attains his or her 19th birthday, whichever is earlier, continuation in or admission to a group home is prohibited unless the nonminor dependent satisfies the conditions of paragraph (5) of subdivision (b) of Section 11403, and group home placement functions as a short-term transition to the appropriate system of care. Treatment services provided by the group home placement to the nonminor dependent to alleviate or ameliorate the medical condition, as described in paragraph (5) of subdivision (b) of Section 11403, shall not constitute the sole basis to disqualify a nonminor dependent from the group home placement.

(4) In addition to the requirements of paragraphs (1) to (3), inclusive, and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school of origin, and school attendance area, the number of school transfers the child has previously experienced, and the child's school matriculation schedule, in addition to other indicators of educational stability that the Legislature hereby encourages the State Department of Social Services and the State Department of Education to develop.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Sections 364, 366, 366.3, and 366.31, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford

caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall

be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the

siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(12) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In a voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan. Commencing January 1, 2012, for nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC or CalWORKs assistance up to 21 years of age pursuant to Section 11403, the transitional independent living case plan, as set forth in subdivision (y) of Section 11400, shall be developed with, and signed by, the nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21, 366.22, or 366.25 as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care

placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(16) (A) When appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan shall include the transitional independent living plan (TILP), a written description of the programs and services that will help the child, consistent with the child's best interests, prepare for the transition from foster care to independent living, and, in addition, whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Immigrant Juvenile Status or other applicable application for legal residency and an active dependency case is required for that application. When appropriate, for a nonminor dependent, the transitional independent living case plan, as described in subdivision (v) of Section 11400, shall include the TILP, a written description of the programs and services that will help the nonminor dependent, consistent with his or her best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the supervised independent living placement as defined in subdivision (w) of Section 11400. The case plan shall be developed with the child or nonminor dependent and individuals identified as important to the child or nonminor dependent, and shall include steps the agency is taking to ensure that the child or nonminor dependent

achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults.

(B) During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec. 675(8)(B)(iii)), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 of the federal Social Security Act (42 U.S.C. Sec. 677), a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care and information regarding the advance health care directive form.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services. The nonminor dependent's caregiver shall be provided with a copy of the nonminor's TILP.

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association of California and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1,

2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(*l*) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 53.3. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, detained by the United States Department of Homeland Security, or deported to his or her country of origin, the case plan shall include information, to the extent possible, about a parent's incarceration in a county jail or the state prison, detention by the United States Department of Homeland Security, or deportation during the time that a minor child of that parent is involved in dependency care.

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the case plan shall include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. The decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family like and the most appropriate setting that is available and in close proximity to the parent's

home, proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, nonrelated extended family members, tribal members, and foster family homes , certified homes of foster family agencies, intensive treatment or multidimensional treatment foster care homes, group care placements, such as group homes and community treatment facilities, and residential treatment pursuant to Section 7950 of the Family Code.

(2) If a group care placement is selected for a child, the case plan shall indicate the needs of the child that necessitate this placement, the plan for transitioning the child to a less restrictive environment, and the projected timeline by which the child will be transitioned to a less restrictive environment. This section of the case plan shall be reviewed and updated at least semiannually.

(3) On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living placement, as described in subdivision (w) of Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. If admission to, or continuation in, a group home placement is being considered for a nonminor dependent, the group home placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the full range of placement options, and shall specify why admission to, or continuation in, a group home placement is the best alternative available at the time to meet the special needs or well-being of the nonminor dependent, and how the placement will contribute to the nonminor dependent's transition to independent living. The case plan shall specify the treatment strategies that will be used to prepare the nonminor dependent for discharge to a less restrictive and more family-like setting, including a target date for discharge from the group home placement. The placement shall be reviewed and updated on a regular, periodic basis to ensure that continuation in the group home remains in the best interests of the nonminor dependent and that progress is being made in achieving case plan goals leading to independent living. The group home placement planning process shall begin as soon as it becomes clear to the county welfare department or probation office that a foster child in group home placement is likely to remain in group home placement on his or her 18th birthday, in order to expedite the transition to a less restrictive and more family-like setting if he or she becomes a nonminor dependent. The case planning process shall include informing the youth of all of his or her options, including, but not limited to, admission to or continuation in a group home placement. Consideration for continuation of existing group home placement for a nonminor dependent under 19 years of age may include the need to stay in

the same placement in order to complete high school. After a nonminor dependent either completes high school or attains his or her 19th birthday, whichever is earlier, continuation in or admission to a group home is prohibited unless the nonminor dependent satisfies the conditions of paragraph (5) of subdivision (b) of Section 11403, and group home placement functions as a short-term transition to the appropriate system of care. Treatment services provided by the group home placement to the nonminor dependent to alleviate or ameliorate the medical condition, as described in paragraph (5) of subdivision (b) of Section 11403, shall not constitute the sole basis to disqualify a nonminor dependent from the group home placement.

(4) In addition to the requirements of paragraphs (1) to (3), inclusive, and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school of origin, and school attendance area, the number of school transfers the child has previously experienced, and the child's school matriculation schedule, in addition to other indicators of educational stability that the Legislature hereby encourages the State Department of Social Services and the State Department of Education to develop.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Sections 364, 366, 366.3, and 366.31, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate

with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that each placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of each placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state

placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(12) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In a voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan. Commencing January 1, 2012, for nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC benefits or CalWORKs assistance up to 21 years of age pursuant to Section 11403, the transitional independent living case plan, as set forth in subdivision (y) of Section 11400, shall be developed with, and signed by, the nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21, 366.22, or 366.25 as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(16) (A) When appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan shall include the transitional independent living plan (TILP), a written description of the programs and services that will help the child, consistent with the child's best interests, prepare for the transition from foster care to independent living, and, in addition, whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Immigrant Juvenile Status or other applicable application for legal residency and an active dependency case is required for that application. When appropriate, for a nonminor dependent, transitional independent living case plan, as described in subdivision (v) of Section 11400, shall include the TILP, a written description of the programs and services that will help the nonminor dependent, consistent with his or her best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the supervised independent living placement as defined, in subdivision (w) of Section 11400. The case plan shall be developed with the child or nonminor dependent and individuals identified as important to the child or nonminor dependent, and shall include steps the agency is taking to ensure that the child or nonminor dependent achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults.

(B) During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec. 675(8)(B)(iii)), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 of the federal Social Security Act (42 U.S.C. Sec. 677), a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the

participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care and information regarding the advance health care directive form.

(17) For youth 16 years of age and older and nonminor dependents, the case plan shall include documentation that the youth received a yearly consumer credit report, at no charge to the youth. If the consumer credit report reveals any inaccuracies, the case plan shall detail the assistance the youth or nonminor dependent will receive to resolve the inaccuracies.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services. The nonminor dependent's caregiver shall be provided with a copy of the nonminor's TILP.

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association of California and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(*l*) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 54. Section 16501.3 of the Welfare and Institutions Code is amended to read:

16501.3. (a) The State Department of Social Services shall establish a program of public health nursing in the child welfare services program. The purpose of the public health nursing program shall be to identify, respond to, and enhance the physical, mental, dental, and developmental well-being of children in the child welfare system.

(b) Under this program, counties shall use the services of a foster care public health nurse. The foster care public health nurse shall work with the appropriate child welfare services workers to coordinate health care services and serve as a liaison with health care professionals and other providers of health-related services. This shall include coordination with county mental health plans and local health jurisdictions, as appropriate.

(c) The duties of a foster care public health nurse shall include, but need not be limited to, the following:

(1) Documenting that each child in foster care receives initial and followup health screenings that meet reasonable standards of medical practice.

(2) Collecting health information and other relevant data on each foster child as available, receiving all collected information to determine appropriate referral and services, and expediting referrals to providers in the community for early intervention services, specialty services, dental care, mental health services, and other health-related services necessary for the child.

(3) Participating in medical care planning and coordinating for the child. This may include, but is not limited to, assisting case workers in arranging for comprehensive health and mental health assessments, interpreting the results of health assessments or evaluations for the purpose of case planning and coordination, facilitating the acquisition of any necessary court authorizations for procedures or medications, advocating for the health care needs of the child and ensuring the creation of linkage among various providers of care.

(4) Providing followup contact to assess the child's progress in meeting treatment goals.

(5) At the request of and under the direction of the nonminor dependent, as described in subdivision (v) of Section 11400, assist the nonminor dependent in accessing health and mental health care, coordinating the delivery of health and mental health care services, advocating for the health and mental health care that meets the needs of the nonminor dependent, and to assist the nonminor dependent to assume responsibility for his or her ongoing health care management.

(d) The services provided by foster care public health nurses under this section shall be limited to those for which reimbursement may be claimed under Title XIX at an enhanced rate for services delivered by skilled professional medical personnel. Notwithstanding any other provision of law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation, as provided under

Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), is available.

(e) (1) The State Department of Health Care Services shall seek any necessary federal approvals for child welfare agencies to appropriately claim enhanced federal Title XIX funds for services provided pursuant to this section.

(2) Commencing in the fiscal year immediately following the fiscal year in which the necessary federal approval pursuant to paragraph (1) is secured, county child welfare agencies shall provide health care oversight services pursuant to this section, and may accomplish this through agreements with local public health agencies.

(f) (1) Notwithstanding Section 10101, prior to the 2011–12 fiscal year, there shall be no required county match of the nonfederal cost of this program.

(2) Commencing in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 55. Section 16503.5 of the Welfare and Institutions Code is amended to read:

16503.5. (a) A placing agency shall provide a caregiver placement agreement to the child's or nonminor dependent's caregiver at the time of the child's placement with that caregiver.

(b) (1) For purposes of this section, "caregiver placement agreement" means a written agreement between the placing agency and the child's or nonminor dependent's caregiver. The department shall approve the format and content of the placement agreement form to be used by a placing agency.

(2) For purposes of this section, "nonminor dependent" means an individual described in subdivision (v) of Section 11400.

(c) The agreement shall describe the terms and conditions of the placement and any agreements made by the placing agency and the child's or nonminor's caregiver.

(d) The agreement shall provide, at a minimum, the contact information for the placing agency's social worker and the worker's supervisor, including, but not limited to, telephone numbers, facsimile numbers, and identifying information about the child or nonminor, including, but not limited to, the child's or nonminor's social security number, if available, the child's or nonminor's Medi-Cal number or group health plan number and information, if available, and the child's or nonminor's State Department of Social Services identification number.

(e) A county placing agency may modify the forms to meet local needs by adding to the form requirements for information, but may not delete the form's core elements as determined by the department.

SEC. 56. Section 16507 of the Welfare and Institutions Code is amended to read:

16507. (a) Family reunification services shall be provided or arranged for by county welfare department staff in order to reunite the child separated

from his or her parent because of abuse, neglect, or exploitation. These services shall not exceed 12 months except as provided in subdivision (a) of Section 361.5 and subdivision (c) of Section 366.3. Family reunification services pursuant to Section 361.6 may be provided to nonminor dependents as described in subdivision (v) of Section 11400. Family reunification services shall be available without regard to income to families whose child has been adjudicated or is in the process of being adjudicated a dependent child of the court under the provisions of Section 300. Family reunification services shall include a plan for visitation of the child by his or her grandparents, where the visitation is in the best interests of the child and will serve to maintain and strengthen the family relationships of the child.

(b) Family reunification services shall only be provided when a child has been placed in out-of-home care, or is in the care of a previously noncustodial parent under the supervision of the juvenile court.

(c) When a minor has been placed in foster care with a nonparent, family reunification services may be provided to one or both parents.

(d) When a county child welfare services agency is providing one parent with reunification services and the other parent is serving a prison term for the conviction of child abuse, pursuant to Section 273a, 273ab, or 273d of the Penal Code, any sex offense specified as being perpetrated against a minor, or an act of domestic violence, the county child welfare services agency may request that the Board of Prison Terms, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 of the Penal Code, or the Department of Corrections, with respect to inmates sentenced pursuant to Section 1170 of the Penal Code, provide the agency, during the time in which reunification services are being provided, with notification that the person is scheduled to be released on parole, or rereleased following a period of confinement pursuant to a parole revocation without a new commitment.

SEC. 57. Section 16508 of the Welfare and Institutions Code is amended to read:

16508. Permanent placement services shall be provided or arranged for by county welfare department staff for children who cannot safely live with their parents and are not likely to return to their own homes, and to nonminor dependents in planned permanent living arrangements. Permanent placement services, including supportive transition services, shall be available without regard to income to the following children:

(a) Children judged dependent under Section 300 where a review has determined that reunification, adoption, tribal customary adoption, or guardianship is inappropriate.

(b) Recipients of public assistance under the nonfederally funded Aid to Families with Dependent Children Foster Care program who are wards of a legal guardian pursuant to Section 11405, where a review has determined that reunification or adoption is inappropriate.

(c) On and after January 1, 2012, nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC pursuant to Section 11403.

(d) For purposes of this section, "supportive transition services" means permanent placement services provided to nonminor dependents as described in subdivision (v) of Section 11400.

SEC. 58. Section 16514 of the Welfare and Institutions Code is amended to read:

16514. (a) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or as to whom a petition has been filed under Section 325, may be housed in an emergency shelter or, pursuant to the procedures for placement set forth in this code, placed in a foster family home, or with a foster family agency for subsequent placement in a suitable licensed foster family home or certified family home, with minors adjudged wards of the juvenile court pursuant to Section 601.

(b) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or adjudged a ward of the juvenile court pursuant to Section 601, shall not be housed in an emergency shelter with any minor adjudged a ward of the juvenile court pursuant to Section 602.

(c) A minor or nonminor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or as to whom a petition has been filed under Section 325, or a nonminor dependent, as described in subdivision (v) of Section 11400, shall not be placed or detained in a group home or licensed foster family home or with a foster family agency to be subsequently placed in a certified family home with any minor adjudged a ward of the juvenile court pursuant to Section 601 or 602, unless the social worker or probation officer has determined that the group home or licensed foster family home or foster family agency has a program that meets the specific needs of the minor or nonminor dependent being placed or detained, and there is a commonality of needs with the other minors and nonminor dependents in the group home or licensed foster family home or certified family home.

(d) Nothing in this section shall transfer or eliminate the responsibility of the placing agency for the care, custody, or control of the child. Nothing in this section shall relieve a foster family agency of its responsibilities for or on behalf of a child placed with it.

For purposes of this section, the placing of children or nonminor dependents by foster family agencies shall be referred to as "subsequent placement" to distinguish the activity from the placing by public agencies.

SEC. 59. Section 16521.5 of the Welfare and Institutions Code is amended to read:

16521.5. (a) A foster care provider, in consultation with the county case manager, shall be responsible for ensuring that adolescents, including nonminor dependents, as described in subdivision (v) of Section 11400, who remain in long-term foster care, as defined by the department, receive age-appropriate pregnancy prevention information to the extent state and county resources are provided.

(b) A foster care provider, in consultation with the county case manager, shall be responsible for ensuring that a foster youth or nonminor dependent

is provided with appropriate referrals to health services when the foster youth either reaches 18 years of age or the nonminor dependent exits foster care, and to the extent county and state resources are provided.

(c) As part of the home study process, the prospective foster care provider shall notify the county if he or she objects to participating in adolescent pregnancy prevention training or the dissemination of information pursuant to subdivisions (a) and (b). A licensed foster care provider shall notify the county if he or she objects to participation. If the provider objects, the county case manager shall assume this responsibility.

(d) Subdivisions (a), (b), and (c) shall not take effect until the department, in consultation with the workgroup, develops guidelines that describe the duties and responsibilities of foster care providers and county case managers in delivering pregnancy prevention services and information.

(e) (1) The department, in consultation with the State Department of Health Services, shall convene a working group for the purpose of developing a pregnancy prevention plan that will effectively address the needs of adolescent male and female foster youth. The workgroup shall meet not more than three times and thereafter shall provide consultation to the department upon request.

(2) The working group shall include representatives from the California Youth Connection, the Foster Parent's Association, group home provider associations, the County Welfare Director's Association, providers of teen pregnancy prevention programs, a foster care case worker, an expert in pregnancy prevention curricula, a representative of the Independent Living Program, and an adolescent health professional.

(f) The plan required pursuant to subdivision (e) shall include, but not be limited to, all of the following:

(1) Effective strategies and programs for preteen and older teen foster youth and nonminor dependents.

(2) The role of foster care and group home care providers.

(3) The role of the assigned case management worker.

(4) How to involve foster youth and nonminor peers.

(5) Selecting and providing appropriate materials to educate foster youth and nonminors in family life education.

(6) The training of foster care and group home care providers and, when necessary, county case managers in adolescent pregnancy prevention.

(g) Counties currently mandating foster care provider training shall be encouraged to include the pregnancy prevention curricula guidelines and educational materials that may be developed by the workgroup pursuant to subdivision (f).

(h) The department shall adopt regulations to implement this section.

SEC. 60. Section 16522 of the Welfare and Institutions Code is amended to read:

16522. (a) The State Department of Social Services shall adopt regulations to govern licensed transitional housing placement providers that provide supervised transitional housing to foster children at least 16 years

of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v) of Section 11400.

(b) The department may structure statewide implementation of transitional housing placement providers on a phased-in basis.

(c) (1) Transitional Housing Program-Plus providers, as defined in subdivision (s) of Section 11400, shall not be subject to licensure pursuant to Section 1559.110 of the Health and Safety Code, if they are certified to provide transitional housing by the applicable county and have obtained a local fire clearance.

(2) By July 31, 2012, the department shall establish certification standards and procedures for the THP-Plus Foster Care program, as described in subdivision (c) of Section 16522.1, in consultation with the County Welfare Directors Association, the California Youth Connection, county probation departments, provider representatives, and other stakeholders, as appropriate.

(d) Transitional housing placement providers shall certify that housing units comply with the health and safety standards set forth in paragraph (5) of subdivision (b) of Section 1501 of the Health and Safety Code. Transitional housing shall include any of the following:

(1) Programs in which a participant lives in an apartment, single-family dwelling, or condominium, with one or more adults approved by the provider.

(2) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium owned or leased by the provider either with an adult employee of the provider or in a building in which one or more adult employees of the provider reside and provide supervision.

(3) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium owned or leased by a provider under the supervision of the provider if the State Department of Social Services provides approval. The housing model described in this paragraph shall be available to minor foster children, if placed prior to October 1, 2012, and to nonminor dependents.

(e) The regulations shall be age-appropriate and recognize that youth who are about to exit from the foster care system should be subject to fewer restrictions than those who are foster children. At a minimum, the regulations shall provide for both of the following:

(1) Require programs that serve youth who are both in and out of the foster care system to have separate rules and program design, as appropriate, for these two groups of youth.

(2) Allow youth who have exited from the foster care system, on or after their 18th birthday, to have the greatest amount of freedom possible in order to prepare them for their transition to adulthood.

(f) The regulations governing licensed transitional housing placement providers that serve nonminor dependents shall be age appropriate and recognize that nonminor dependents who are about to exit from the foster care system should be subject to fewer restrictions than those who are foster children. At a minimum, the regulations shall provide for both of the following:

(1) Require programs that serve foster children and nonminor dependents to have separate rules and program design, as appropriate, for these two groups of youth.

(2) Allow nonminor dependents to have the greatest amount of freedom possible in order to prepare them for their transition to adulthood, in accordance with paragraph (1) of subdivision (b) of Section 1502.7 of the Health and Safety Code.

(3) Maintain a program staffing ratio of case manager to client not to exceed 1 to 12.

SEC. 61. Section 16522.1 of the Welfare and Institutions Code is amended to read:

16522.1. (a) In order to be licensed as a transitional housing placement provider pursuant to Section 1559.110 of the Health and Safety Code and be eligible for payment of AFDC-FC benefits pursuant to Sections 11403.2 and 11403.3, an applicant shall obtain certification from the applicable county specifying whether the facility will serve foster youth at least 16 years of age and not more than 18 years of age, nonminor dependents, as defined in subdivision (v) of Section 11400, or both, as follows:

(1) A program serving foster children at least 16 years of age and not more than 18 years of age shall obtain a certification entitled "Transitional Housing Placement Program."

(2) A program serving nonminor dependents at least 18 years of age and not more than 21 years of age shall obtain a certification entitled a "Transitional Housing Placement-Plus Foster Care program."

(b) The certification for the Transitional Housing Placement Program shall confirm that the program provides for all of the following:

(1) Admission criteria for participants in the program, including, but not limited to, consideration of the applicant's age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.

(2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.

(3) Strict employment criteria that include a consideration of the employee's age, drug or alcohol history, and experience in working with persons in this age group.

(4) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.

(5) A detailed plan for monitoring the placement of persons under the licensee's care.

(6) A contract between the participating person and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.

(7) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.

(8) A system for payment for utilities, telephone, and rent.

(9) Policies regarding all of the following:

(A) Education requirements.

(B) Work expectations.

(C) Savings requirements.

(D) Personal safety.

(E) Visitors, including, but not limited to, visitation by the placement auditor pursuant to paragraph (5).

(F) Emergencies.

(G) Medical problems.

(H) Disciplinary measures.

(I) Child care.

(J) Pregnancy.

(K) Curfew.

(L) Apartment cleanliness.

(M) Use of utilities and telephone.

(N) Budgeting.

(O) Care of furnishings.

(P) Decorating of apartments.

(Q) Cars.

(R) Lending or borrowing money.

(S) Unauthorized purchases.

(T) Dating.

(U) Grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways.

(10) Apartment furnishings, and a policy on disposition of the furnishings when the participant completes the program.

(11) Evaluation of the participant's progress in the program and reporting to the independent living program and to the department regarding that progress.

(12) A linkage to the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.) program administered in the local area to provide employment training to eligible participants.

(13) Effective January 1, 2013, a program staffing ratio of case manager to client not to exceed 1 to 12.

(c) The certification for the Transitional Housing Placement-Plus Foster Care program for nonminor dependents, as described in paragraph (2) of subdivision (a), from the applicable county shall include all of the following:

(1) That the program is needed by the county.

(2) That the provider is capable of effectively and efficiently operating the program.

(3) That the provider is willing and able to accept the AFDC-FC-eligible nonminor dependents for placement by the placing agency who need the level of care and services that will be provided by the program.

(4) That the plan of operation is suitable to meet the needs of the identified population.

(5) That the program staffing ratio of case manager to client does not exceed 1 to 12.

(6) As used in subdivision (c),"applicable county," for purposes of the certification of a program that serves nonminor dependents, means the county where the administrative office or subadministrative office of a transitional housing placement provider is located, or a primary placing county.

SEC. 62. Section 18251 of the Welfare and Institutions Code is amended to read:

18251. As used in this chapter:

(a) "County" means each county participating in an individualized or wraparound services program.

(b) "County placing agency" means a county welfare or probation department, or a county mental health department.

(c) "Eligible child" means a child or nonminor dependent, as described in subdivision (v) of Section 11400, who is any of the following:

(1) A child or nonminor dependent who has been adjudicated as either a dependent, transition dependent, or ward of the juvenile court pursuant to Section 300, 450, 601, or 602 and who would be placed in a group home licensed by the department at a rate classification level of 10 or higher.

(2) A child or nonminor dependent who is currently, or who would be, placed in a group home licensed by the department at a rate classification level of 10 or higher.

(3) A child who is eligible for adoption assistance program benefits when the responsible public agency has approved the provision of wraparound services in lieu of out-of-home placement care at a rate classification level of 10 or higher.

(d) "Wraparound services" means community-based intervention services that emphasize the strengths of the child and family and includes the delivery of coordinated, highly individualized unconditional services to address needs and achieve positive outcomes in their lives.

(e) "Service allocation slot" means a specified amount of funds available to the county to pay for an individualized intensive wraparound services package for an eligible child. A service allocation slot may be used for more than one child on a successive basis.

SEC. 63. Section 18964 of the Welfare and Institutions Code is amended to read:

18964. (a) Notwithstanding any provision of law governing the disclosure of information and records, including, but not limited to, Section 5328 of the Welfare and Institutions Code, a person who is trained and

qualified to serve on a multidisciplinary personnel team pursuant to subdivision (d) of Section 18951, whether or not the person is serving on a team, may be deemed, by the team, to be part of the team as necessary for the purpose of the prevention, identification, management, or treatment of an abused child and his or her parents. The designated team may deem a person to be a member of the team for a particular case, and that team shall specify its reasons, in writing, for deeming that person to be a member of the team. The person, when deemed a member of the team, may receive and disclose information relevant to a particular case as though he or she were a member of the team. The information and records which may be disclosed shall not be restricted to those obtained in the course of providing services pursuant to this chapter.

(b) The caregiver of the child and, in the case of an Indian child, the child's tribe shall be permitted to provide information about the child to the multidisciplinary personnel team that will be considered by the team and to attend meetings of the multidisciplinary personnel team, as deemed appropriate by the team, without becoming a member of the team. Any caregiver or tribal representative who attends multidisciplinary personnel team meetings shall agree in writing not to disclose any confidential information he or she receives as a result of his or her participation with the team.

(c) This section does not apply to the records of or pertaining to a nonminor dependent. The multidisciplinary personnel team may have access to those records only with the explicit written and informed consent of the nonminor dependent.

SEC. 64. Section 18986.46 of the Welfare and Institutions Code is amended to read:

18986.46. (a) A program shall utilize children's multidisciplinary services teams, as defined in this chapter.

(b) A team member shall provide program services only as employed by, under contract with, or otherwise affiliated with, the program, and shall not share information, or provide program services, when acting as a separate local, state, or private agency or entity.

(c) A program shall be considered a single program for purposes of federal substance abuse program regulations contained in Part 2 (commencing with Section 2.1) of Title 42 of the Code of Federal Regulations.

(d) Notwithstanding any other provision of law regarding disclosure of information and records, a program shall be permitted to establish a unified services record for a child and family. That record shall contain all records of prior services that are released to the program and that are relevant and necessary to formulate an integrated services plan, pursuant to valid written authorizations, as well as a record of all service provided under the program.

(e) Notwithstanding any other provision of law regarding disclosure of information and records, when a child enters the program a parent, guardian, judicial office with jurisdiction over the minor, or a minor with legal power to consent, or nonminor dependent, as described in subdivision (v) of Section

11400, shall be asked to sign a single authorization that gives a knowing and informed consent, in writing, and that complies with all other applicable provisions of state law governing release of medical, mental health, social service, and educational records, and that covers multiple service providers, in order to permit the release of records to the program. This single authorization shall not include adoption records. The authorized representative of the child, or the child in a case where he or she has the legal right to consent, or the nonminor dependent, shall be fully apprised of the requirements of this subdivision prior to participation in the program. Before information may be exchanged about a particular child or family pursuant to this chapter, a representative of the program shall do all of the following:

(1) Explain to the authorized representative of the child, or the child in a case where he or she has the legal right to consent, or the nonminor dependent, both of the following, and this explanation shall be given before any information about the child or family is recorded and before any services are provided:

(A) Information provided by the child or family, or nonminor dependent, may only be exchanged within the program with the express written consent of the authorized representative.

(B) Information shall not be disclosed to anyone other than members of the children's multidisciplinary services team, and those qualified to receive information as explained in subdivision (i).

(2) The authorized representative of the child, or the child in a case where he or she has the legal right to consent, or the nonminor dependent, shall be informed that he or she has a right to refuse to sign, or to limit the scope of, the consent form, and that a refusal to sign, or to limit the scope of, the consent form will not have an adverse impact on the client's eligibility for services under the programs described in this chapter.

(f) The knowing and informed consent given pursuant to this chapter shall only be in force for the time that the child or family, or nonminor dependent, is a client of the program.

(g) (1) Notwithstanding any provision of state law governing the disclosure of information and records, persons who are trained, qualified, and assigned by their respective agencies to serve on teams within a program and other team members included pursuant to this chapter may view relevant sections of unified program records and may disclose to one another relevant information and view records on a child or the child's family as necessary to formulate an integrated services plan or to deliver services to children and their families.

(2) This information and records may include information relevant to the evaluation of the child and his or her family, the development of a treatment plan for the child and his or her family, and the delivery of services. Relevant information and records shall be shared with family members or family designees on the team, except information or records, if any, disclosure of which the team determines would present a reasonable

risk of a significant adverse or detrimental effect on the minor's psychological or physical safety.

(h) (1) If the members of a children's multidisciplinary services team within an integrated children's services program require records held by other team members, copies may be provided to them.

(2) Notwithstanding any other provisions of law regarding disclosure of information and records, a program may establish and maintain a common data base for the purpose of delivering services under the program. The database may contain demographic data and may identify the services recommended for, and provided to, a child and his or her family by the program. The database shall be for use and disclosure only within the program, except by properly authorized consent by a parent, guardian, judicial officer with jurisdiction over the child, or a minor with the legal power to consent.

(3) The program may authorize use of information contained in the database for bona fide evaluation and research purposes, unless otherwise prohibited by law. No information disclosed under this paragraph shall permit identification of the individual patient or client. The release of copies of mental health records, physical health records, and drug or alcohol records in programs establishing a unified services record shall be governed by the single authorization of informed and knowing consent to release these records. In programs not establishing a unified services record and not utilizing the single authorization of informed and knowing consent, release of these records may take place only after the team has received a form permitting release of records on the child or the child's family, signed by the child, to the extent the records were generated as a result of health care services to which the child has the power to consent under state law, or, to the extent that the records have not been generated by the provision of these health care services, by the child's parent, guardian, or legal representative, including the court which has jurisdiction over those children who are wards or dependents of the court.

(i) The children's multidisciplinary services team may designate persons qualified pursuant to Section 18986.40 to be a member of the team for a particular case. A person designated as a team member pursuant to this subdivision may receive and disclose relevant information and records, subject to the confidentiality provisions of subdivision (k).

(j) The sharing of information permitted under subdivision (g) shall be governed by memoranda of understanding among the participating service providers or agencies in the coordinated children's service system or program. These memoranda shall specify the types of information that may be shared without a signed release form, in accordance with subdivision (e), and the process to be used to ensure that current confidentiality requirements, as described in subdivision (k), are met. This paragraph shall not be construed to waive any right of privilege contained in the Evidence Code, except in compliance with Section 912 of that code.

(k) Every member of the children's multidisciplinary services team who receives information or records on children and families served in the

integrated children's services program shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(*l*) This section shall not be construed to restrict guarantees of confidentiality provided under federal law.

(m) Information and records communicated or provided to the program, by all providers, programs, and agencies, as well as information and records created by the program in the course of serving its children and their families, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Civil and criminal penalties shall apply to the inappropriate disclosure of information held by the program. Nothing in this section shall be construed to affect the authority of a health care provider to disclose medical information pursuant to paragraph (1) of subdivision (c) of Section 56.10 of the Civil Code.

SEC. 65. (a) The State Department of Social Services shall develop regulations to implement this act, in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, and researchers. In developing these regulations, the department shall consider its Manual of Policy and Procedures, Chapter 30-000, Sections 30-912, 30-913, 30-916, and 30-917, as guidelines for developing regulations that are appropriate for young adults who can exercise incremental responsibility concurrently with their growth and development. The department, in its consultation with stakeholders, shall take into consideration the impact to the Automated Child Welfare Services Case Management Services (CWS-CMS) and required modifications needed to accommodate eligibility determination under this section, benefit issuance, case management across counties, and recognition of the legal status of nonminor dependents as adults, as well as changes to data tracking and reporting requirements as required by the Child Welfare System Improvement and Accountability Act of 2001 as specified in Section 10601.2, and federal outcome measures as required by the federal John H. Chafee Foster Care Independence Program (42 U.S.C. Sec. 677(f)).

(b) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall prepare for implementation of the applicable provisions of this act by publishing, after consultation with the stakeholders listed in subdivision (a), all-county letters or similar instructions from the Director of Social Services by April 1, 2013. Emergency regulations to implement the applicable provisions of this act may be adopted by the director in accordance with the Administrative

Procedure Act. The initial adoption of the emergency regulations and one readoption of the emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

SEC. 66. The Judicial Council may adopt any rules of court or Judicial Council forms necessary to implement this act.

SEC. 67. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 68. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of this act.

SEC. 69. Section 7.5 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and Assembly Bill 1707. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 11170 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1707, in which case Section 7 of this bill shall not become operative.

SEC. 70. Section 13.5 of this bill incorporates amendments to Section 317 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 1909. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 317 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 1909, in which case Section 13 of this bill shall not become operative.

SEC. 71. (a) Section 14.1 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 2060. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 361 of the Welfare and Institutions Code, and (3) Senate Bill 1064 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2060, in which case Sections 14, 14.2 and 14.3 of this bill shall not become operative.

(b) Section 14.2 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 361 of the Welfare and Institutions Code, (3) Assembly Bill 2060 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1064 in which case Sections 14, 14.1 and 14.3 of this bill shall not become operative.

(c) Section 14.3 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by this bill, Assembly Bill 2060, and Senate Bill 1064. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 361 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 2060 and Senate Bill 1064, in which case Sections 14, 14.1 and 14.2 of this bill shall not become operative.

SEC. 72. (a) Section 15.1 of this bill incorporates amendments to Section 361.5 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1521. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 361.5 of the Welfare and Institutions Code, and (3) Senate Bill 1064 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1521, in which case Sections 15, 15.2 and 15.3 of this bill shall not become operative.

(b) Section 15.2 of this bill incorporates amendments to Section 361.5 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 361.5 of the Welfare and Institutions Code, (3) Senate Bill 1521 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1064 in which case Sections 15, 15.1 and 15.3 of this bill shall not become operative.

(c) Section 15.3 of this bill incorporates amendments to Section 361.5 of the Welfare and Institutions Code proposed by this bill, Senate Bill 1521, and Senate Bill 1064. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 361.5 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1521 and Senate Bill 1064, in which case Sections 15, 15.1 and 15.2 of this bill shall not become operative.

SEC. 73. Section 18.5 of this bill incorporates amendments to Section 366 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 2209. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 2209, in which case Section 18 of this bill shall not become operative.

SEC. 74. (a) Section 19.1 of this bill incorporates amendments to Section 366.21 of the Welfare and Institutions Code proposed by both this bill and

Assembly Bill 2292. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366.21 of the Welfare and Institutions Code, and (3) Senate Bill 1064 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2292, in which case Sections 19, 19.2 and 19.3 of this bill shall not become operative.

(b) Section 19.2 of this bill incorporates amendments to Section 366.21 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366.21 of the Welfare and Institutions Code, (3) Assembly Bill 2292 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1064 in which case Sections 19, 19.1 and 19.3 of this bill shall not become operative.

(c) Section 19.3 of this bill incorporates amendments to Section 366.21 of the Welfare and Institutions Code proposed by this bill, Assembly Bill 2292, and Senate Bill 1064. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 366.21 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 2292 and Senate Bill 1064, in which case Sections 19, 19.1 and 19.2 of this bill shall not become operative.

SEC. 75. (a) Section 20.1 of this bill incorporates amendments to Section 366.22 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 2292. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366.22 of the Welfare and Institutions Code, and (3) Senate Bill 1064 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2292, in which case Sections 20, 20.2 and 20.3 of this bill shall not become operative.

(b) Section 20.2 of this bill incorporates amendments to Section 366.22 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366.22 of the Welfare and Institutions Code, (3) Assembly Bill 2292 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1064 in which case Sections 20, 20.1 and 20.3 of this bill shall not become operative.

(c) Section 20.3 of this bill incorporates amendments to Section 366.22 of the Welfare and Institutions Code proposed by this bill, Assembly Bill 2292, and Senate Bill 1064. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 366.22 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 2292 and Senate Bill 1064, in which case Sections 20, 20.1 and 20.2 of this bill shall not become operative.

SEC. 76. (a) Section 22.1 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 2292. It shall only become operative if (1) both bills are

enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366.25 of the Welfare and Institutions Code, and (3) Senate Bill 1064 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2292, in which case Sections 22, 22.2 and 22.3 of this bill shall not become operative.

(b) Section 22.2 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 366.25 of the Welfare and Institutions Code, (3) Assembly Bill 2292 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1064 in which case Sections 22, 22.1 and 22.3 of this bill shall not become operative.

(c) Section 22.3 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by this bill, Assembly Bill 2292, and Senate Bill 1064. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 366.25 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 2292 and Senate Bill 1064, in which case Sections 22, 22.1 and 22.2 of this bill shall not become operative.

SEC. 77. Section 30.5 of this bill incorporates amendments to Section 388 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 388 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1064, in which case Section 30 of this bill shall not become operative.

SEC. 78. Section 47.5 of this bill incorporates amendments to Section 16010 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 1909. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 16010 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 1909, in which case Section 47 of this bill shall not become operative.

SEC. 79. (a) Section 53.1 of this bill incorporates amendments to Section 16501.1 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1521. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 16501.1 of the Welfare and Institutions Code, and (3) Senate Bill 1064 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1521, in which case Sections 53, 53.2 and 53.3 of this bill shall not become operative.

(b) Section 53.2 of this bill incorporates amendments to Section 16501.1 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1064. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 16501.1 of the Welfare and Institutions Code, (3) Senate Bill 1521 is not

enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1064 in which case Sections 53, 53.1 and 53.3 of this bill shall not become operative.

(c) Section 53.3 of this bill incorporates amendments to Section 16501.1 of the Welfare and Institutions Code proposed by this bill, Senate Bill 1521, and Senate Bill 1064. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 16501.1 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1521 and Senate Bill 1064, in which case Sections 53, 53.1 and 53.2 of this bill shall not become operative.

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